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11.

A BRIEFE, AND PERFECT Relation,

Of the Anſweres and Replies of THOMAS Earle of *Strafford*; To the Articles exhibited againſt him, by the Houſe of COMMONS on the thirteenth of *Aprill*, *An. Dom.* 1641.

LONDON Printed, 1647.

To the Reader.

READER,

HAVING imployed the Author of this Treatise to make these Collections for my private information; And finding them to bee beneficiall for the Publique, I durst not wrong Posterity and my owne Conscience, to conceale them for my owne use, without imparting them to the good of others: For, the solemn-Triall therein described is so Paramount in the Equipage of all Circumstances; that (as former Ages have been un-able) so, future are un-likely to produce a paralell thereof. As for the Person himselfe; who, as a cunning Master of Defence, waved the thrusts of such skilfull and powerfull Adversaries: Take his Character in this Booke from his owne Mouth; seeing, otherwise, whatsoever may be spoken of him, is beneath what was spoken by him: So, that in stead of other Monopolies laid to his Charge, hee may seeme most guilty of ingrossing so much Worth and Ability into his owne Bosom.

To the Reader.

Behold here a Garden of the moſt and beſt Rarities; wherein points of Lawe are interwoven with Acts of State, and the affaires of Ireland, *as in the ſame Eſcutcheon, quartered with thoſe of* England : *Herein, nothing falſe is Reported, nothing triviall is Obſerved, nothing memorable is Omitted; for, the Net of his Diligence was ſo cunningly and carefully ſpread over all the Tranſaction, that if any paſſage eſcaped his notice, it may bee concluded ſo ſmall as inconſiderable to bee obſerved. The Paines in Collecting, Care in Preſerving, Coſt in Publiſhing this* Treatiſe *are abundantly ſatisfied, if my ſineere-Intentions for the propagation of the Trnth be welcomed with thy cordiall and candid acceptance thereof.*

Thine

S. R.

THE

THE Proceedings againſt THOMAS, Earle of *Strafford*, *Lord Lieutenant* of *Ireland*, *in the Parliament at Weſtminſter*, *An Dom.* 1641.

SIR,

'YOu have here the Diurnall of the whole Proceſſe a-'gainſt the Lord Lieutenant of Ireland, it was taken by the 'hand of a ready writer, a faithfulll eare, and an underſtanding 'head. He was preſent at all the action, and I make no doubt of 'the fidelity of his Relation, Which beginneth thus:

THE Houſe for the appearance of the Lord Lieutenant, was the great Hall in Weſtminſter, where there was a Throne erected for the King, on each ſide whereof a Cabinet, incloſed about with boards, and before with a Tarras: Before that were the ſeats for the Lords of the upper Houſe, and ſacks of wooll for the Judges, before them ten ſtages of ſeates, extending farther then the midſt of the Hall, for the Gentlemen of the Houſe of Commons: At the end of all was a Deske, cloſed about and ſet apart for the Lord Lieutenant and his Councell.

On Monday morning about ſeven of the clock, he came from *Monday.* the Tower, accompanied with ſix Barges, wherein were one hundred ſouldiers of the Tower, all with Partizans for his guard, and fifty payre of Oares: At his landing at Weſtminſter, there he was attended with two hundred of the trayned-Band, and went in, guarded by them into the Hall: The entries at White-

Hall, King-ſtreete and Weſtminſter, were guarded by the Conſtables and watch-men, from foure of the clock in the morning, to keepe away all baſe and idle perſons.

The King, Queene and Prince, came to the Houſe about nine of the clock, but kept themſelves private within their Cloſets, only the Prince came out once or twice to the cloth of State; ſo that the King ſaw and heard all that paſſed, but was ſeen of none: Some give the reaſon of this from the received practiſe of England, in ſuch Caſes: Others ſay, that the Lords did intreate the King, eyther to be abſent, or to be there privately, leſt pretentions might be made hereafter, that his being there was eyther to threaten, or ſome otherwaies to interrupt the courſe of Juſtice: A third ſort, That the King was not willing to be acceſſary to the Proceſſe, till it came to his Part, but rather choſe to bee preſent, that he might note and underſtand what Violence, Rigour, or Injuſtice happened: When the Lieutenant entred the Hall, the Porter of the Hall (whoſe office it is) asked Maſter *Maxwell* whether the Axe ſhould bee carried before him or noe, who did anſwere that the King had expreſly forbidden it, nor was it the cuſtome of England to uſe that Ceremony, but only when the Party accuſed was to bee put upon his Jury, Thoſe of the upper Houſe did ſit with their heads covered, thoſe of the lower Houſe uncovered: The Biſhops upon the Saterday before, did voluntarily decline the giving of their Suffrages in matters Criminall, and of that nature, according to the proviſion of the Cannon-Law, and practiſe of the Kingdome to this day, and therefore would not be preſent: yet withall they gave in a Proteſtation that their abſence ſhould not prejudice them of that or any other priviledge competent to them, as the Lords Spirituall in Parliament, which was accepted.

The Earle of Arundell, as Lord high-Steward of England, ſat apart by himſelfe, and at the Lieutenants entrie commanded the Houſe to proceede: Maſter *Pym* being ſpeaker of the Committee for his accuſation, gave in the ſame Articles which were preſented at his laſt being before the upper Houſe, which being read, his Replyes were ſubjoyned and read alſo, the very ſame which were preſented before in the upper Houſe: Some give the reaſon of this, becauſe the lower Houſe had not heard thoſe Accuſations in pulique before: others, that the formality of the Proceſſe

eeſſe required no leſſe, however that day was ſpent in that exerciſe.

The Queene went from the Houſe about eleven of the clock, The King and Prince ſtayed till the meeting was diſſolved, which was after two : The Lieutenant was ſent to the Tower by his Guard, and appointed to returne upon Tueſday at nine of the clock in the morning. The crowd of people was neither great nor troubleſome, all of them ſaluted him, and hee them, with great humility and courteſie, both at his entrance and at his returne, therefore let fame pretend what it pleaſe about the malice and diſcontent of the multitude, *That if he paſſe the ſtroake of Juſtice they will teare him in peeces*, yet I ſee there is more in Rumor then in Sight and appearance, and in this Report, as in all others of this nature, more is thruſt upon the vulgar (who ſeeme as well fearefull of puniſhment, as exempt from it, for all their great number) then they doe juſtly deſerve.

On Tueſday in the morning hee came accompanied, as before, to Weſtminſter; and having ſtayed in the Exchequer Chamber till nine of the clock, the King, Queene and Prince came, as before upon the firſt day. *Tueſday.*

Then Maſter *Pym*, being called for, aggravated the Charge which was given the day before, by a very ample Speech : It is impoſſible to call to minde all the Hyperbolees, the Flaſhes and ſuperlative Expreſſions that hee uſed, the maine points were : That it was a Treaſon farre beyond the reach of words, that hee the Lieutenant, a native Subject and a Peere of England, the prime Governour of Ireland, the Commander of his Majeſties Forces, and a Proteſtant in Religion ſhould have in ſuch an impious and groſſe manner, recompenced his Majeſties favours, abuſed his goodneſſe, and drawne all his Dominions into hazard and perill of their Religion, Lives, Goods and Priviledges : That one of theſe faults alone had beene enough and too much for the fullfilling of the exorbitancy and wickedneſſe of any one man, And that no puniſhment could be thought upon ſufficient to expiat crimes of ſuch a tranſcendent nature. *Pyms firſt Charge.*

The Lieutenant, with no leſſe moderation and wiſdome, then the other with heate and paſſion, ſpake to his owne defence, and that with ſuch a meaſure of Eloquence and Lively-hood, that his very Enemies were affected with it and doe mervailouſly report of it.

The Lieutenants Answere.

Hee modeſtly recounted his ſervices done to the King and Crowne of England, his endavours for advancement as well of the Honour as Commodity of both Kingdomes in generall, but in particular that of Ireland; How he had engreatned and advanced the Kings Revenues there, Reſtored the Churches maintenance, Suppreſſed the Out-lawes, eſtabliſhed obedience to Royall authority, and impedited the Tyranny and Uſurpation of greater ones over the Commons, And for the effecting of all theſe Actions, hee mentioned himſelfe the moſt weake and meaneſt Inſtrument, with a wonderfull Prudence, in a middle way, betwixt the affectation of baſeneſſe, or dejectedneſſe, and Allejance.

Three new Articles.

Maſter *Pym*, after the cloſe of his Speech, told him that there were three new Articles adjoyned (by an after ſearch) to his Charge, and deſired that he might preſently Reply to the ſame.

Whereunto the Lieutenant anſwered. It was very ſtrange, that after the cloſe of the Proceſſe, and when matters were come to bee ſcan'd, and examined by proofe, that any new Charge ſhould bee given in; Yet leſt he ſhould ſeeme to decline the maintenance of his owne Innocency, and the juſt defence of his Honour, hee was moſt willing to heare them and have them alleaged, provided that a convenient time might be aſſigned him to make his Replies againſt them, as he had done to the other given in before.

But Maſter *Pym* excepted againſt this, and told him that the Houſe did conceive it to be dangerous to grant any farther Prorogation.

Upon this the Lords of the upper Houſe (who did not think it fit as yet to voyce any particular in the audience of the Houſe of Commons) did retire themſelves, and after a pretty time of ſtay, they returned and declared, That they had found the Lieutenants ſuit to be equitable in deſiring of further time for anſwering; yet ſeeing the Articles themſelves, neither for number nor weight, ſeemed to bee of that importance, but that he might furniſh out a preſent Anſwere, they thought it fitting to grant no delay.

The Lieutenant then (intreating them to paſſe by and pardon the weakeneſſes of his extemporary Anſweres) deſired to heare the Articles read which were theſe.

Firſt,

First, That hee had within these two yeeres withdrawne forty thousand pound sterling, from the Exchequer in Ireland, and imployed it to his owne private uses.

Secondly, That in the beginning of his Government, the Garrisons in Ireland had been maintained by the English Treasury.

Thirdly, That hee had advanced Popish and Infamous persons, as the Bishop of Waterford and others, to the prime Roomes in the Church of Ireland.

To the first hee answered, That thirty thousand pounds were set apart for the Kings late service, at his owne most speciall and most peremptory Commands, for which he produced the Kings owne Letter, already approved as his Acquittance at the Exchequer boord in Ireland.

To the second, That at the beginning of that Charge against him, as ever before his time, the Garrisons had beene burthensome to the Kingdome of England, but that he had so improved it, and setled the Kings Revenue there, that the like is not to be heard in all the times that are by past; For which if the best endeavors of a Subject may justlyexpect any reward from his King and Country) hee craved leave to thinke that hee rather deserved many thanks, then the least punishment.

To the third, Hee attested all the Clergy in Ireland, if ever he had taken upon him any particular medling in advancing their Church-men, or whether he had done any thing concerning such affaires, but upon the speciall advise and desire of the best and wisest of their number: For his part, when hee befriended the Bishop of Whaterford, hee conceived of him, as a man of Integrity and Learning, fit for such an imployment; nor was there then the least suspition of those mon-

ſtrous impieties, wherewith he was afterwards Charged. That he had now juſtly ſuffered for the ſame, and that hee hoped they would not lay a neceſſity upon him to Prophecy and Divine of the future Conditions and Deportments of men : For others of the Church, ſuſpected of Popery, hee knew none ſuch, but ſhould anſwere to the Particulars ſo far as they concernd him, when they ſhould happen to be alleaged.

After this the Houſe diſſolved for that night, the kings Majeſty and the Prince having ſtayed all the time, and the Lord Lieutenant was appointed to come thither againe on Wedneſday morning, at which time they are to proceede to the firſt Article, to give an Oath to the witneſſes, and to examine all the Proofes whereon the Proceſſe was builded.

'It will be a very hard matter for him to expect every mans 'teſtimony, and to give his anſweres, eyther for full ſatisfaction 'or diminution of all objections, which way of proceeding will 'ſpend at leaſt a fortnight, if not a greater ſpace of time, yet it is 'thought the lower Houſe are impatient of delayes : The expe-'ctations are exceeding various and different, about the event of 'this great action ; ſome thinke it will bee impoſſible to eſcape 'the many and great accuſations laid to his Charge ; Others, and 'that the greater number too, are of opinion that he will be in no 'hazard of his Life, and that it will not be poſſible to bring him 'into the compaſſe of Treaſon (*quod tam miſere cupio ut non 'credam*) his adverſe party is ſo great, and ſo farre intereſſed 'both in point of ſafety and honour againſt him, that *Flectere ſi 'nequeunt ſuperos, &c.* nothing will bee left unaſſayed that may 'accelerate his Ruine.

'He hath all this time carried himſelfe couragiouſly, to the ad-'miration (and withall ſo moderately, that it is to the great ſatiſ-'faction) of his very enemies, ſo that he ſeemes neither dejected 'with feare, nor to affect boldneſſe with confidence, but to car-'ry himſelfe with that conſtancy and reſolution which his Inno-'cency and brave parts doe promiſe.

'The Iriſh Commiſſioners here, have hitherto abſteined from 'giving in any Remonſtrance againſt the Lieutenant, and doe ſtill 'pleade to have an immediate dependence from the King, and not 'from the Parliament of England : There was a report that the 'Parliament of Ireland had ſent a Proteſtation againſt the Act made

'made the laſt yeere, for the Kings ſupply in his Expedicion a-
'gainſt the Scots, as a thing which was violently in part, and in
'part ſurreptitiouſly obteined from them : But I have learned
'this to be an untruth. I had almoſt forgotten one paſſage of
'Maſter *Pym*, who in the aggravation of the Lieutenants faults,
'had this expreſſion, That hee was like the Whore in the Pro-
'verbs. *Hee wiped his mouth, and with a brazen face ſaid hee had*
'*done no evill.*

To this the noble Lord Replyed, That he wiſhed his Innonocence might not be taken for Impudence, That hee hoped ſhortly to cleere himſelfe of all thoſe foule aſperſions which his malicious Enemies had caſt upon him, And hee was very confident that he ſhould give the honorable Houſes full ſatiſfaction concerning his life hitherto, and thought of nothing more hereafter then to retyre himſelfe from all publique imployments.

Maſter *Pym* gave at this a great ſhout, and deſired the Houſe to take notice what an injury he had done to the hnnourable Houſe of Commons, in calling them his malicious Enemies.

Whereupon the Lieutenant falling down upon his knees, humbly beſought them that they would not miſtake him, and withall gave a large Panægyrique of their moſt juſt and moderate proceedings, proteſting that if hee himſelfe had been one of the houſe of Commons (as hee had the honour once to be) he would not have adviſed them to have done otherwiſe againſt his deereſt friend : But withall told them that hee might juſtly ſay he had his owne un-friends, which hee hoped in time to make known ; nor did hee all this time ſpeake one bitter word againſt Maſter *Pym*, though juſtly incenſed, which hath infinitely advanced his Reputation.

'I have beene a daily hearer of theſe Proceedings againſt this
'great Perſonage, now upon the Stage, therefore doe preſume I
'can give a reaſonable account thereof : The book of his Charge
'is extant in print, ſo it ſhall be needefull for me only to name
'the Articles as they were canvaſed : and thoſe deſigned by the
'Houſe of Commons to be his Accuſers, which were theſe that
'follow.

The names of his Accuſers.

Pym, Glin, Maynard, Whitlock, Lo. Digby, St. Johns, Palmers, Sr. Wa. Earles, Stroud, Seilden, Hampden, &c.

One

'One of these began the speech, the rest after their Colleague 'hath done, follow in their turne, so that hee hath all of them to 'wrestle against, and yet sufficiently able for them all; though by 'his agitation his Spirits are much exhausted.

wednesday Master *Glyn*, after a large flourish, on Wednesday, told the Lords, That the Lord Strafford was impeached not with simple, but accumulative Treason. For, though in each particular Article, such a monstrous Crime could not be deprehended, yet when all was conceived in the Masse, and under one view, hee should be undoubtedly found the most wicked and exorbitant Traytor that ever was arraigned at that Barre, Hee added that his Charge was for intending to subvert and change the fundamentall Lawes, Liberties, and Priviledges of both the Kingdomes, and to introduce an Arbitrary and Tyrannicall forme of Government. This, hee said, could not appeare but by the fruits, which were eyther in Expression or Action, The Expressions were foure.

Glyns Charge.

Expres.

First, That before severall witnesses hee had said at Yorke, That the Kings little finger should be heavier, to them, then the Loynes of the Lawe.

To this the Lieutenant replyed, That having spoken sufficiently before to his justification in generall, hee would moreover add these few words, by their Favours: That it did strike him to the heart to be attached of such a wicked Crime, by such honorable Persons, yea that it wounded him deeper, in regard that such Persons who were the Companions of his youth, and with whom he had spent the best of his dayes, should now rise up in judgement against him, yet hee thanked God for it, it was not guilt but griefe, that so much troubled him, He added That it was a wonder how he had gotten strength sufficient in such infirmity of body, and such anguish of minde, to collect his thoughts and say any thing at all for himselfe: But the Almighty God, who knowes him to be innocent, had furnished him with some abilities to give testimony to the truth and to a good Conscience: He therefore intreated, that if eyther in judgement or in Memory, he should at any time fayle, it might be imputed to his great weakenesse, And although the Gentlemen his Accusers should seeme more ready in their Accusa-

tions

tions, then himſelfe in his defence, yet that might not prejudice his Cauſe, who in very unequall termes, had to doe with learned and eloquent Lawyers, bred up a long time and inured to ſuch judiciary pleadings, and whoſe Rhetorik, he doubted not, might preſent many things to their view in a multiplying glaſſe; Hee told them farther, that for theſe many yeeres hee had beene weary of publique ſervice, and that now it was his reſolution, after he had vindicated his honour, to retyre himſelfe, and enjoy his much longed for privacy, And yet hee could not but tell them ſo much, That it had beene his hearty wiſh and deſire, rather voluntarily to have reſigned his places of Honour, like a ripe fruit falln from the Tree, then to be violently pulled from thence, as a fruitleſſe and unprofitable withered Branch.

To the Charge of Treaſon, he ſaid, that under favour, hee conceived that although all the Articles conteined in his impeachment were verified againſt him, yet they would not all amount to Treaſon, neither ſimple nor accumulative: For (ſaid he) I doe not underſtand by what interpretation of Law, the diverſion of Juſtice can be called a ſubverſion of the ſame, or the exceeding of a Commiſſion, the uſurpation of a new Power. To the particular he replyed That his words were cleerely inverted, for that his expreſſion was, *That the little finger of the Law (if not ſupported by the Regall Power, in granting Pardons for pœnalties of the ſame) was heavier then the Kings Loynes.* That this was his expreſſion hee verified.

Firſt by the occaſion, for hee ſpake the words a long time ſince, to ſome men who had layn impriſoned at Yorke, and were then by the Kings favour ſet at Liberty, whom hee incited to thankefullneſſe (by this expreſſion) towards his Majeſty.

Secondly, by witneſſes produced by him: In the examination of their witneſſes hee convinced one of them of untruth, by interrogating him where he was when the ſpeech was heard, and how farre diſtant from him, when the man had replyed, That he was twelve yards from him, Hee anſwered that it was impoſſible for him to heare a man three yards off, by reaſon of a deafeneſſe that had held him 14 yeeres, which being found true, the witneſſe was rejected.

Another witneſſe (Sir *David Foules* (was brought againſt him, againſt whom he excepted as his known and profeſſed enemy; 'twas told him that he himſelfe did not uſe to admit of exceptions againſt witneſſes, and therefore was to expect the ſame meaſure.

Hee replyed that Maſter *Pym* might one day perhaps bee atached for perſwading the Houſe of Commons to commit the ſame Crime that was laid upon him as a Charge of Treaſon: But for all this the witneſſe was received, becauſe in matter of Treaſon a mans enemy may witneſſe againſt him *pro Domino noſtro Rege*, 'Though, I ſuppoſe the Kings advice was never 'asked for the preſent. This was all that was done for 'that time.

Thurſday. On Thurſday hee was charged with the ſecond Expreſſion; *Expreſ. 2.* *That hee ſaid Ireland was a Conquered Kingdome, and that the King might præſcribe them what Lawe he pleaſed.*

'This they aggravated as a prime note of his Tyrannicall will 'and affection, that would permit no Law to bound the Subject, 'but what himſelfe and ſuch as he might draw up by ſiniſtrous in-'formations, from a gracious and well meaning Prince, and if this 'were admitted, the whole Power and Liberty of the Republique 'would be utterly loſt.

Straffords Reply. To this hee replyed, That neyther was the Expreſſion in thoſe words nor in that ſence ſpoken or meant by him; The firſt part of it (ſaid hee) cannot bee denied; To the ſecond that hee had ſaid only, That the King was the Law-giver, which he hoped none could deny without incurring the Crime of Treaſon; And that the Kings Sentence was a Law in matter not determined by Acts of Parliament, which all but diſloyall Subjects would grant; And that it had beene ever his endeavor to have the Liberty of the Subject, and the Royall Prerogative follow both in one Channell: If either of them croſſed other, we could expect nothing but a ſubverſion of the Common-wealth, eyther by Tyranny or Rebellion; That the Prærogative was like the firſt; the Liberty of the Subject like the ſecond Table, eyther both or neither can be preſerved, That in his duty hee ſtood oblieged firſt to the King, as Gods Anointed, then in the ſecond place to his Countrey, if it did not croſſe the Regall Power: And therfore hoped that what hee had

had ſpoken was ſo farre from being Treaſon, that hee thought a thouſand ſuch Expreſſions would not make up one Felony.

On Friday the two other Expreſſions were followed; *That hee ſaid, Hee would not ſuffer his Ordinances to bee diſputed by Lawyers, before inferiour Judicatories, and that hee would make an Act of State equivalent to an Act of Parliament.* *Friday. Expreſſ. 3. & 4.*

To the firſt hee ſaid, that hee had often ſaid (more then once) that hee would not ſuffer his Ordinance to be contemned, becauſe, in him, his Maſters Honour was wounded.

To the ſecond, Hee thought a proportionable obedience was due to Acts of State, as well as to Acts of Parliament, otherwiſe they were made in vaine if that both did not bind in one kinde.

The Lord *Corke* (though his mortall Enemy) was now examined and admitted, as a witneſſe, whom in his Depoſition hee convinced of two ſhamefull overſights: For *Corke* had declared upon his Oath, That the Lieutenant had cauſed to bee interlined an Ordinance againſt himſelfe, and had cauſed ſome words to be ſcraped out, which words were notwithſtanding ſtill found to be in the Sentence by an authentique Coppy under the hand of Sir *Paul Daviſon*, Clearke to the Councell-boord of Ireland. *Corks two falls.* *1 Interlyning.*

Then *Corke* alleaged, That hee had advanced a Groome of his to be a Preacher, who by a teſtimony from the Univerſity of Dublin he verified to have beene a Maſter of Arts, ten or twelve yeeres before his advancement, Adding withall, that my Lord of *Corke* was an excellent Scholler, who was able to breede ſuch Groomes. *2 His Groome.*

Upon Satterday, having done with his Expreſſions, they canvaſed the firſt Article about his actions. *Satterday.*

Againſt the Lives of the Kings Subjects, both in the Caſe of the Lord Mount-Norris and alſo of another of the Kings Subjects, both of whom hee had Sentenced to Death by Martiall Law, contrary to all Lawe, and to the manifeſt ſubverſion of the Priviledges of Subjects, Magna Charta, and the Petition of Right. *Charge 1.*

To the Lord *Mount-Norris* his Caſe, hee Replyed:

1. That though that Sentence had beene un juſtly given and rigorouſly proſecuted againſt him, yet the greateſt Crime that *Strafford's Reply.*

hee could bee charged withall would but amount to Manslaughter, or Felony at the moſt.

2. That hee hoped (though this were true) to obteine a Pardon from his gracious Maſter the Kings Majeſty, as well as *Conway*, and Sir *Jacob Aſhley* had lately done, for exerciſing Matiall Lawe in the Northern Army.

Then hee Replyed to all the parts of the Charge which were foure.

1. *That hee had exerciſed Martiall Lawe in time of Peace,*

To this hee Anſwered :

1. That all Armies have beene, and muſt bee, governed ever by Martiall Law.

2. That there is a ſtanding Army in Ireland, and therefore the Caſe is all one in time of Peace or Warre; And that the Army might bee undone if they ſhould not uſe Martiall Law, but were to expect Remedy for the ſetling of a Mutiny, or aſſurance of obedience from the Common-Law.

3. That it had ever beene the practiſe of the Deputies, particularly of *Wilmot*, *Faulkland*, *Chicheſter*, yea *Corke* himſelfe, and therefore was no new thing, brought in by him ; This hee proved, both by the production of the Military Ordinances and by divers witneſſes who knew Sentences given in that kind by them.

4. That hee had a particular warrant in his Commiſſion for this Power.

5. That in the Lord *Mount-Norris* his Caſe, hee was commanded to exerciſe the ſame, by the Kings particular Letter, both which hee cauſed to be read.

Charge 2. The ſecond Charge was, *That he was both Party and Judge in the Lord* Mount-Norris *Cauſe.*

Straffords Reply. To this hee Replyed, That hee had ſitten in judgement, becauſe he was one *ſine quo non*, the Judgement could not proceede without him, but that hee was not Judge but Party appeared.

1. Becauſe he ſate diſcovered all the time.

2. Becauſe hee refuſed to give his own Opinion.

3. Becauſe hee did not give his Suffrage one way or other.

4. Becauſe hee removed his Brother Sir *George* from having

ing hand in the Proceſſe, in regard of intereſt of blood.

The third Charge was, *That he proceeded ſummarily in the matter of the Lord* Mount-Norris. *Charge 3.*

Hee Replyed:

Firſt, that hee was not Judge in it, and that the Councell of Warre was to be anſwerable in the juſtification of their owne Proceedings. *Strafford's Reply.*

Secondly, That after a long reaſoning hee had heard them ſay, that no delay could ſafely bee granted in Martiall Courts.

The fourth Charge was, *That he had not heard the Exceptions made by* Mount-Norris *againſt his witneſſes.* *Charge 4.*

To this he anſwered, as before, That he was not Judge in the Caſe, and that he remembers no Exceptions made againſt any witneſſes, To which hee added, that as hee had beene regulated in his Proceedings, ſo hee had beene moderate in the Execution of that Sentence; For, though the Lord *Mount-Norris* juſtly deſerved to dy, yet hee had obteined him the Kings Pardon, for the ſaving of his life, and proteſted that hee intended nothing by that Sentence, but in ſome meaſure to repayre his owne Honour, and to give *Mount-Norris* faire reproofe, who was known to bee of an exorbitant and licentious tongue and Spirit: Adding, That if the houſe of Commons would goe on the ſame way with him, and aſſure him that the iſſue of his Charge, ſhould be nothing elſe but to admoniſh him for the time to come, hee would thanke them heartily for it, and ſtudy amendment in all his pretended overſights. And whereas *Mount-Norris* complayned that hee had jeeringly told him, when the Sentence was paſſed and pronounced againſt him: That ere hee loſt his head, himſelfe would loſe his hand; Hee anſwered, that hee had beene thought to bee very inſolent and haughty, yet hee was never ſo impertinent to uſe this expreſſion; If any fault were, it was for undervaluing himſelfe in ſaying, That ere a hayre of *Mount-Norris* ſhould periſh, hee would loſe his hand: And truly (ſaid hee) if *Mount-Norris* would ſay ſo to mee now, even in the worſt ſence that can bee conceived, That ere I died hee would loſe his hand, I would take it very kindly from him. *Strafford's Reply.*

For the other man hee avouched that hee himſelfe had voyced to hang him, both becauſe hee was an arrant theefe, and

alſo had fled from his Colours, which by the very Common-Law (and to this effect hee cited a Statute 20 *Hen.* 6. & 7. *Hen.* 7.) That to fly from their Colours is fellony. Hee concluded That ſeeing hee was not acceſſory to the Sentence againſt *Mount-Norris*, had not ſate there as Judge, had a power to keepe Martiall-Courts by his Commiſſion, had not exerciſed the ſame till a new Command came from his Majeſty, had done no more then ever was practiſed in Ireland, before his time, and had at laſt obteined *Mount-Norris* his pardon, Hee hoped there was nothing accuſable in him but his too remiſſe and too moderate proceedings.

Glynn's Ejaculatiõ

Maſter *Glyn* bitterly replyed, That hee knew the time when the Earle of Strafford was no leſſe active and ſtirring to enlarge the liberty of the Subject, and advance the Petition of Right, then now he is for extending his owne Arbitrary and Tyrannicall Government.

Straffora's Reply.

To this hee Replyed without the leaſt ſemblance of paſſion, That if at any time hee had done the leaſt ſervice to the Houſe of Commons, hee thought his whole life well ſpent, nor could they ever ſo graciouſly reward him as to give Commiſſion to that Gentleman, to expreſſe ſo much before that honourable Aſſembly: But withall if ever any ſuch thing was done by him, hee intreated it might now bee remembred, and might now ſerve to over ballance ſome ſleight and meane overſights committed by him, which hee hoped ſhould never make him guilty of Treaſon, unleſſe it were Treaſon for a man to have no more wit and prudence then God and Nature had beſtowed upon him. And ſo much for Satterday.

Monday

Upon Munday hee was charged with the ſixt Article: *That hee had uſed a Tyrannicall Government, not only over the Lives (as appeared by the laſt) but alſo over the Lands and Goods of the Kings Subjects, as appeared by this Article; wherein hee was Charged to have diſpoſeſſed the Lord* Mount-Norris *of a tenure of Lands, by a ſummary Proceſſe before himſelfe, contrary to all Law, and therefore had fayled:*

Charge Art. 6.

1. *Againſt the Act.* 7 Hen. 6. *which provides all matters to be determined by the Ordinary Judges.*

2. *Againſt the cautions ſent to Ireland by King* James, *expreſly forbidding ſuch power hereafter to be exerciſed.*

3. *Againſt*

3. *Againſt the Kings late Proclamation.*

4. *Againſt the practiſe of all Deputies before that time.*

Withall they added, *That it was a Tyranny that could not bee expreſſed, to exerciſe this power over the perſons of the Peeres of the Land, and their Goods.*

To this hee Replyed, That for his part, in matter of Juſtice (under favour hee ſpake it) hee thought there was no diſtinction to bee made betwixt a Peere of the Land, and one of the Commons, except they did thinke that eyther feare or faction ſhould doe ſomething, which had no place in him. *Straffords Reply.*

To the Particulars.

1. That the Act of *Hen. 6.* anſwered it ſelfe ſufficiently, both becauſe it excepted the Court of Requeſts (and that his proceedings were nothing elſe in Ireland, and alſo makes an expreſſe Reſervation of the Kings Prerogative, which hee ſaid was his ſtrength, becauſe hee derived his Commiſſion from the King, and that the Act was the moſt expreſſe warrant in the world for him.

2. That hee had not fayled againſt the cautions given by King *James.*

1. Becauſe they were not Charged upon him.

2. Becauſe they were never obſerved, nor could be by the Deputies to whom they were given, which he proved both by witneſſes and writings.

3. Becauſe the Caution made rather for him then againſt him, in that it conteined the word hereafter, which manifeſtly implyed that that power had beene ſometimes before exerciſed in Ireland. And not only by himſelfe, and therefore thanked them for that teſtimonie and hint.

4. That though the Cautions had beene given to him, yet he had received an expreſſe Command from the king his Maſter, to put that power in uſe, cauſing the Kings Letter, for that pupoſe, to be read; and profeſſing withall, that hee was tender to exerciſe that power, till the King (induced by the humble Remonſtrance of the meaner ſort of people) had moſt peremptorily, and upon moſt juſt reaſons commanded him.

3. That hee could not obey the Kings Proclamation five yeeres

yeeres before it came out, and that hee wiſhed from his heart, that they would but reſpect the Kings Commands and Commiſſions, with that tenderneſſe of affection and obedience as he did his Proclamations.

4. Hee proved it to be the conſtant practiſe of all Deputies that went before him.

Charge It was objected that other Deputies had indeede upon ſuits of Equity determined, themſelves, and matters of Debt; but never of Land.

Strafford's Reply. Hee Replyed, Firſt that the ſame Authority reacheth as well to the one as to the other: Secondly that neither he nor they had ever given Sentence, or determined any thing concerning matters of Inheritance, but only concerning violent intruſion, which fell directly within a ſuit of Equity. To which hee added, Firſt the Equity of that Court, that it proceeds upon the ſame grounds and evidences of that of the Common-Pleas, and that hee had the aſſiſtance of two of the learned Judges, in deciding the Controverſie.

Secondly the profit of that Court, which diſpatcheth the poore in a day or two, whereas the Common-Law would keepe them ſo many yeeres, which they are not able to ſuſteine.

Thirdly, the neceſſity of that Court in that Kingdome, which hath beene ever governed by that way, and therefore impoſſible to debarre the natives from it, without great inconvenience, for it would utterly undoe them, and none is prejudiced by it but the Lawyers, And therefore ſeeing that he had done nothing but what was cuſtomary, neceſſary and equitable; Commanded to it, and the Sentence juſt; hee hoped rather for thanks from the State, then a Charge for his ill Deportment; withall he ſhewed with what Extortion and Violence the Lord *Mount-Norris* had taken ſeiſure of that peece of Land, and made the playing of his game to be very foule; and at laſt hee added, That he had done no more in Ireland, then the Court of Requeſt in England uſually doth, And that the Chancery Court in Ireland doth the ſame daily, and the laſt Chancellor was never Charg'd (ſaid hee) for ſuch Proceedings, though this his Power and Authority was leſſe then mine; But the difference of the Perſon and his Authority (it ſeemeth)

ſeemeth) differeth the matter. And this was the buſineſſe on Monday.

On Tueſday they paſſed by the 7 Article, and the two firſt parts of the 8, about the Lady *Hibbotts* Land; *That hee had violently thruſt her from her poſſeſſion, by this Summary way of Juſtice, and afterwards purchaſed the land to his owne uſe, by borrowing the name of Sir* Robert Meridith. *Tneſday Charge the latter part of the eight Article. Lady Hibots Caſe.*

In this Probation, the teſtimony of the Gentlewomans own ſonne was uſed, of the Lord of *Corke*, and the Lord *Mount-Norris*, all his back-friends, or profeſſed Enemies; and yet they proved very little but what they tooke up upon heareſayes, their prime Allegation was.

Firſt, *That though the major part of the Councell-Boord, had voted for the Lady, yet the Lord Lievetenant had given Decrees againſt her.*

Secondly, *That all was done to his own behooſe.*

To the Firſt, Hee produced the Sentence, under the hand of the Clerke of the Councell-Boord, ſubſcribed by the Major part. *Straffords Reply.*

To the Second, Hee atteſted that hee had no under-dealing with *Meridith*, for the Lady had got her own Lands back from the ſaid Sir *Robert Meridith*: Hee alſo declared at length, with what fraude and deceit the Lady had come to her Lands, and upon what reaſons they were reſtored.

After this Article, they fell upon the ninth; about the giving of Commiſſion to the Biſhop of Downe, and Connar, for apprehending all ſuch Perſons, and preſenting them before the Councell-Boord as contemned the Eccleſiaſticall Ordinances. *Charge Article 9.*

'This was aggravated as a point mainly againſt the Liberty of 'the Subject.

To this Hee Replyed,

Fiſt, Hee produced the Primate of Irelands Teſtimony under his hand (hee being himſelfe ſick) that the ſame courſe had been uſed in Ireland before, and that Biſhoppe *Mountgomery*, his Predeceſſor in the Biſhoprick of Methe, had had the ſame. *Straffords Reply.*

Secondly, Hee ſhewed the Equity that ſuch aſſiſtance ſhould bee given to Church-men, who otherwiſe, becauſe of Papiſts and Schiſmaticks, either to God or the King, would

have no Reſpect or Obedience given them in that Kingdom.

Thirdly, He proved, by two witneſſes, that ſuch Warrants were in uſe before his time.

Fourthly, Hee ſaid hee had never granted any but that one, and had preſently within ſome few Moneths called the ſame in againe; what (ſaid hee) was the Biſhop of Downes carriage in it, hee had no reaſon to anſwere for, But hee preſumed the Biſhop could give a ſatisfactory anſwere for himſelfe, when hee ſhould be called in queſtion; And ſo hee concluded that a matter ſo juſt, ſo neceſſary, ſo cuſtomary and practicall before, Hee hoped ſhould not bee Charged upon him as an Introduction of a new and Tyrannicall Forme of Government, And therefore ſubmitted himſelfe to the Mercy of God, and the Equity of his Peeres in his Tryall. And this was the worke on Tueſday.

'The ability of this brave Gentleman raviſheth his hearers with 'admiration, though he bee infinitely ſpent both in Body and 'Mind, by the continued and almoſt un-interrupted Agitation.

Wedneſday Charge Art. 10. After the ninth Article was paſſed againſt the Commiſſion iſſued in favour of the Biſhop of Downe and Connar; Upon Wedneſday Maſter *Glyn* proceeded to the tenth Article, the Charge was. *That the Earle of Strafford, having eſtabliſhed an Arbitrary and Tyrannicall Government, over the Lives, Lands and Liberties of the Kings Subjects, his next deſire was to make intruſion upon the Crowne it ſelfe, that by applying to his own uſe the Publique Revenues, hee might bee the more enabled to accompliſh his diſloyall and trayterous intentions; To which end, having by a new booke of Rates enhaunced the Cuſtomes, hee had gotten by advantage of his Leaſe, above twenty ſix thouſand pound yeerly. This (they added) was a Crime of higher nature then thoſe conteined in the Preceding Articles, Becauſe in thoſe there was ſome colour or pretext of Juſtice, here none; thoſe in Particulars, this in Generall; thoſe againſt the Subject only, this againſt the King himſelfe.*

For the Proofe of the Charge, they produced the Leaſe of the Duke of Buckingham.

Which was read and compared with that Leaſe to the Dutcheſſe of Buckingham (which the Lieutenant hath now by Aſſignement) and ſome differences ſhewn ariſing to the ſum of two thou-

thouſand pounds in the Dukes Leaſe, only the moity of concealed and forfeited Goods were due to him, but the whole Goods to the Dutcheſſe in her Leaſe; Againe the Kings ſhips of prizes, did not pay Cuſtomes in the Dukes Leaſe, in the Dutcheſſes they did; Againe, the Impoſt of the Wines (then belonging to the Earle of Carlile) was not in the Dukes Leaſe, in the Dutcheſſes it was; Laſtly, whereas the Earle of Strafford paid but fourteene thouſand pounds *per annum* for the Cuſtome, it was worth to him, as was apparent by the bookes of the Exchequor, forty thouſand pound. Witneſſes were examined.

Firſt Sir *James Hay*, who depoſed that the Earle of Carlile had an advantage of one thouſand ſix hundred pounds *per an.* by his Leaſe of Wines.

Secondly, The Lord *Ranelaugh*, who depoſed that by the inſpection of the books of Accompts, hee had found the Cuſtomes to be *Anno* 1636, thirty ſix thouſand pounds. *Anno* 1637, thirty nine thouſand pounds. *Anno* 1638, fifty foure thouſand pounds. *Anno* 1639, fifty nine thouſand pounds.

With the Proofe they concluded the Charge; *That notwithſtanding the Lord Strafford pretended a great meaſure of Zeale and Honeſty in his Majeſties ſervice, yet it is evident hee had abuſed the truſt put upon him, and by withdrawing ſo great ſummes of money from the Crowne, had weakened the King, præjudiced the Subject of the Protection they were to expect from him, and had beene the cauſe that the extraordinary way of Impoſt and Monopolies had beene undertaken, for ſupplying of the Royall neceſſitie: And that this Act, therefore, ought to bee enough to make the Charge and Impeachment of high-Treaſon laid againſt him.*

Strafford's Reply.

The Lievetenants Reply was, That hee conceived hee had given full ſatisfaction to all hitherto brought againſt him, about that pretended Arbitrary Government, nor would hee ſpend time in vaine Repetitions, for the preſent Article, though in all its parts it were granted to be true, yet hee could not perceive, by what Interpretation of Lawe, it could imply the leaſt Act of Treaſon, and when it ſhould be directly Charged upon him as a point of Miſdemeanour, Oppreſſion or Felony, hee made no doubt but hee ſhould bee very able to cleere himſelfe abundantly in that point alſo, yet leſt any prejudice might ſtick to his Honour, by theſe bold Aſſertions,

Hee was content to ſteppe ſo farre out of the way as to give anſwere.

Firſt, That it concerned him nothing what particulars in the Leaſe had paſt betwixt the King and the Dutcheſſe of Buckingham, or whether ſhe had obteined a more eaſy Condition then the Duke her husband, eſpecially ſeeing that ſame was graunted ſome yeeres before his comming to that Government; yet thus much hee could ſay That the Dutcheſſe had paid thirty thouſand pound fine, and therefore no mervaile her yeerely rent was the leſſe.

Secondly, For the booke of Rates (wherein the chiefe matter of Oppreſſion and Grievance ſeemed to reſt) the ſame was there eſtabliſhed by the Deputy *Faulkland*, *An.* 1628, 3 yeers before his going into Ireland, and therefore it was exceeding ſtrange, in his apprehenſion, how that could riſe up in judgement againſt him.

Thirdly, That hee had his Intereſt in the Cuſtomes by Aſſignation of a Leaſe from the Ducheſſe, which was given her before his Government, nor did hee ever heare it alleaged as a Crime of Treaſon, for a man to make a good bargaine for himſelfe.

Fourthly, That not of his owne accord, but at the Kings ſpeciall Command hee had undergone that Charge, on hopes that upon the enquiry into the worth thereof, the Cuſtomes might bee improved for the benefit of the Crowne, and the true value thereof diſcovered. This hee proved by the Lord *Cottington*, and Sir *Arthur Ingram*.

Fiftly, That when a new booke of Rates was recommended to him by the Councell-Board of England, in the time of his Leaſe, he ſo farre preferred a feare hee had, That the Trade of Ireland might thereby be diſcouraged, before his owne Commodity, as hee preſumed, in all humility, to refuſe the ſaid book of Rates, and tendred his Reaſons thereof to the Kingdome and Councell-Board of England.

Sixtly, That hee never underſtood that the Cuſtomes could ariſe to thoſe great ſummes alleaged, but though they ſhould, yet his advantage was but ſmall; for firſt dividing the fourteene thounds hee paid to the King, then five parts of eight, which was yeerely given in upon Oath (and that procured

firſt by himſelfe) at the Exchequer Board, the other three parts divided amongſt foure of them which were equall ſharers in the Leaſe, would not amount to any great ſumme of money; And therefore except it were Treaſon for him to have improved the Kings Revennue, encouraged the Trade, and refuſed the new booke of Rates, hee could in his owne weake judgement diſcerne none there, nor could hee thinke it a Crime, for him to take an Aſſignation of a Leaſe, graunted before his time, and to inſiſt in the booke of Rates uſed before his comming over; And therefore was confident the Lords would rather take his Accuſation as an exerciſe of Rhetorick in the Gentlemen his Adverſaries, then as a thing ſpoken in good earneſt by them.

The ſame day the eleventh Article, concerning Tobacco, was Charged on, by the ſame man Maſter *Glyn*, after this manner: *That for the farther advancement of his Tyrannicall and Avaritious Deſignes, hee had, of himſelfe, eſtabliſhed a Monopoly for the reſtraint of Tobacco in that Kingdome; where they offered five particulars to the proofe.* *charge. Artic. 11.*

Firſt, That hee had reſtrayned the Importation of Tobacco.

Secondly, That in the meane time hee had brought in a great quantity himſelfe, and ſold the ſame at exorbitant Prizes.

Thirdly, That of Tobacco, already imported, hee had forbidden any to bee ſold, but what was firſt ſealed by his Officers.

Fourthly, That upon a pretended diſobedience, hee had puniſhed a great number of People, by Seizures, Impriſonments, Fineing, Whipping, Pillory, and ſuch like cruell and inhumane uſages.

Fiftly, That by theſe meanes hee had gayned one hundred thouſand pounds yeerely.

For Proofe hereof

Firſt, The Proclamation, for reſtrayning Tobacco, was read.

Secondly, The Proclamation about the ſealing of the ſame.

Thirdly, Some witneſſes, who declared that Shippes had beene reſtrayned from landing Tobacco.

Fourthly, Others who had known ſome Tobacco ſeized on as forfeited.

Fiftly, The Remonſtrance of the Houſe of Commons in Ireland, declaring that the Earle had ſold 500 Tunne of Tobacco, which ſold at 2 s. 6 d. per pound, amounts to 100000 l.

They concluded the Charge : *That hee had ſucked up the blood and eaten up the Kings Liege-people, and had by this one point of Oppreſſion, rayſed greater ſummes to himſelfe, then all the Kings Revenue in that Kingdome extended unto : And therefore was lyable to the Crime of Treaſon, for troubling the Peace, and bereaving the People of their goods, who were entruſted into his Care and Government.*

The Lievetenantss Reply was,

Straffords Reply. That his moſt ſecret thoughts were conſcious of nothing but of a ſincere intention and indeavor to promote and advance the well-fare of that Kingdome ; And withall hee conceived (by their leaves) that nothing in that Charge could have the leaſt referrence to Treaſon ; yet as hee ſaid before, for removing of all prejudice, he was content to anſwere :

Firſt, That long before his comming to Ireland, the ſame reſtraint had been of Tobacco, and the ſame Impoſt of eighteen pence per pound, enjoyned by King *James*.

Secondly, That at that time, the Tradeſ-men for this Commodity paid but twenty pounds a yeere to the Crowne, for the Impoſt, but now 4000 l.

Thirdly, That the Parliament in Ireland 1628, had Petitioned to have this Impoſt ſetled by an Act of State for ever afterwards, as a part of the Revenue of the Crowne.

Fourthly, That hee had expreſſe command from the King, for iſſuing thoſe Proclamations, and therefore could not Imagine more danger in them, then in others for Monopolies in England, in the worſt ſence.

Fiftly, That the Proclamations were ſent forth not by himſelfe alone, but by the whole Councell-Board of Ireland.

Sixtly, That for the contract of Tobacco, hee was ſo tender of it, that it was ſent over hither, and ſeene and approved of by the Councell-Board of England, before it was condiſcended to in Ireland.

For the Proclamations ; Hee told them it was his own opinion (and if hee failed in it, hee humbly craved pardon, and hoped that it ſhould not bee Treaſon to have no more judgement then God had beſtowed on him) that the King was indued by God, with a power, to make temporary Lawes, and cauſe the ſame to be promulgated for the good of his People,

upon

upon ſuddaine emergent occaſions; to which Lawes, obedience is due, till they be abrogated by enſuing Parliaments; that hee reſtrayned no man from importing Tobacco, who was willing to pay the appointed Impoſt; that for his part, hee had never Traffict in all his time, in that kinde, nor had any part with the Contractors: And if any Tobacco was ſeized on, it was upon Contempt of the Proclamations; And if any Perſon were cenſured to the Pillory, or Whipping, it was for known Perjury, the ordinary and uſuall puniſhment in ſuch a Caſe: Concerning the Tobacco imported (hee ſaid) no conſideration was taken of the prices given for the Tobacco beyond Seas, of the Kings Revenue of foure thouſand pound, of the Merchants paines and danger, bringing the ſame home: For his part, if any advantage were made, ſurely it was not his, nor could hee annull every Contract or Leaſe made by the King: And therfore, ſeeing his intereſt was none, hee had done nothing but at the Kings directions, and at the advice of the Councell-Board; ſeeing the ſame Impoſt was in King *James* his time, and Petitioned for by themſelves in Ireland: Hee hoped the carriage in the buſineſſe ſhould bee ſo farre from a Crime of Treaſon, that it ſhould rather be thought no Crime at all. So much for Wednesday.

Upon Thurſday hee was Charged with the twelfth Article, concerning Flax, by Maſter *Maynard*, on this manner: *That the Flax, being the native and principall Commodity of that kingdome, was by him (the Lievetenant) reſtrayned, and the Subjects put to that which was unknowne, yea impoſſible for the Iriſh to make the ſame into Yarne, here they complayned of three things.* *Thurſday. Artic. 12. Charge by Maynard.*

Firſt, That by Proclamation hee had reſtrayned ſelling of Flax.

Secondly, That hee had ordered the making of Yarne of ſuch and ſuch lengths and numbers of threds.

Thirdly, That the Native Iriſh, being unacquainted with ſuch Cuſtomes, upon a pretended diſobedience, had all their Flax and Yarne ſeized on to his uſe, whereby a great many families weee reduced to ſuch penury that they died, by great numbrrs in the fields for want of foode.

For

For proofe hereof they brought:

Firſt, The Proclamation about the Reſtraint.

Secondly, The Warrant for ſeizing the forfeited goods.

Thirdly, The execution of this Warrant, proved by Sir *John Clotworthy*, Lord *Ranelaugh*.

Fourthly, The Remonſtrance from the houſe of Commons, in Ireland, That upon the rigorous courſe and execution of this Warrant, many Perſons died for want of foode. They concluded the Charge therefore: *Though the Article did not individually imply Treaſon, yet it did make very much for the Accumulation of Treaſon.*

The Lievetenants Reply was,

Straffords Reply.

That as before he would and muſt ever repeate it, that nothing was in the Charge that conteined Treaſon, To the matter it ſelfe hee anſwered.

Firſt, That the Proclamations iſſued forth, were grounded not only upon convenience, but upon neceſſity, becauſe that except ſome way had beene taken for ordering of Yarne, the Merchants had abſolutely given over the Linnen-trade in that Kingdome.

Secondly, That the Councell-Board was as lyable to the Charge as himſelfe, amongſt whom were, at that time, the Primate of Ireland, the Arch-biſhop of Dublin, Chancelor *Loftis* and the Lord *Mount-Norris*, all ſubſcribers to the Proclamation, men to them of known integrity and judgement.

Thirdly, That nothing was more common, then for the Councell-Board of Ireland to give out Orders for reducing the natives to the Engliſh-Cuſtomes, and to fine them for drawing their Horſe by the tayles, during their Corne, and ſuch like, and hee conceived that to bee a thing of the ſame nature.

Fourthly, That the ſpeciall thing inducing him to it was, becauſe hee perceived the trade of Wooll to increaſe much in that Kingdome; He diſſwaded by all meanes the making of Woollen-Cloth, becauſe of the infinite detriment that might happen thereby to the Kingdome of England, and therefore thought this the beſt way to encourage the way of Linnen cloth; For the Warrant to ſeize upon the goods, hee affirmed the ſame to bee

bee neceſſary, becauſe there ſhould be no contempt to Proclamations; But that any part thereof did accrue to him, he flatly denied; If any rigour was uſed in the execution, hee ſaid not hee, but his Officers were to anſwere for it; for this might happen in the moſt juſt and neceſſary commands, nor was there ever any complaint preſented to him of any ſuch matter; For his part hee had loſt thirty thouſand pounds in the Manufacture, eſtabliſhed by himſelfe for the encouragement of others.

To that, that Perſons died by this meanes, hee Replyed, that it was more then ever hee heard, or could thinke poſſible, yea that hee was cleered by the allegation it ſelfe, which ſaith that the ſame happened ſince his comming from Ireland.

To the Remonſtrance of Ireland, Hee conceived that a Charge was but a ſlender proofe of a Charge, and that eſpecially upon Interrogatories, not upon Oath, ſeeing that priviledge was not due to the Houſe of Commons, neither here, nor there; that hee might ſay it in truth and modeſty, hee deſerved much better of that People, and might take up that in the Goſpell. *For which of all my good Deedes, &c.* Yet hee hoped to bee better underſtood ſhortly, both here and there, And for his part, though his purſuit had beene very hot, yet God was his witneſſe hee never intended to take the leaſt Impreſſion of Revenge, for thoſe diſcontents and affronts which had beene eagerly put upon him, or to carry any thing hence with him from that Barre, where ſo many foule Aſperſions had beene unjuſtly throwne upon him, but only *Gratuitas Cicatrices.*

Charge by Mr. Palmer, *latter part of the* 15. *Article ſeizing & laying ſouldiers upon the Subjects.*

The ſame day a freſh man (Maſter *Palmer*) entred the Liſts againſt him, who having paſt by, for want of proofe the thirteenth, fourteenth, and part of the fifteenth Articles, inſiſted only upon the ſecond part, for giving Warrant to Sarjeant *Savill*, for ſeizing and laying Souldiers upon the Subjects, hee Charged thus. *That the Lord* Strafford, *having by a Tyrannicall Power inverted the ordinary courſe of juſtice, and given immediate Sentence upon the Lands and Goods of the Kings Subjects, under pretence of diſobedience, had uſed a Military way for redreſſing of the Contempt, and laid Souldiers upon the Lands and Goods of the Kings Subjects, to their utter ruine. This Article (hee ſaid) of it ſelfe did*

conteine an individual Treaſon, ſo that if there were no more then this, it were more then ſufficient to convince him of his Impeachment.

Here hee offered two things,

Firſt, The proofe of the point.

Secondly, By what Statute this Act of Tyranny, directly and by it ſelfe, implyed Treaſon : For the firſt, Sarjeant *Savill* was called, who produced the copie of the Warrant upon which hee had ſetled the Souldiers.

Straffords Reply. At this the Lievetenant roſe, and humbly intreated the Lords no evidence ſhould be received againſt him, upon an Article of ſuch importance, but what might bee thought authentique, and ſuch a one, under fauour, hee conceived that Copy not to bee.

Firſt, Becauſe no tranſcript, but the Originall only, can make faith before the Kings Bench, in a matter of Debt, therefore farre bee it from them to receive a moſt ſlender teſtimony, in matter of Life and Death, before the ſupreme Judicatory of the Kingdome.

Secondly, If Copies bee at any time received, they are ſuch as are given in upon Oath, to have beene compared with the Originalls, which are upon Record, ſuch an one was not that Copy.

Glyns Speech. It was Replyed by Maſter *Glyn* (for all of them ſpake as occaſion ſerved) that the Houſe had but the day before admitted Copies as evidences, much more ſhould they doe this, when it was proſecuted by the Officer himſelfe, who beſt knew it, having executed the ſame.

Straffords Reply. To this the Lievetenant anſwered, that all other Copies ought to bee received upon Oath, to have beene compared with the Originall, as right reaſon requireth, but that this was not ſo,; And for the Officer himſelfe producing it, that was the beſt Argument hee could uſe, why it ſhould not bee admitted : For (ſaid hee) Maſter *Savill* may bee charged with Treaſon, for ſeiſing men of warre upon the Kings Subjects, hee hath nothing for his defence but a pretended Warrant from me : Now what hee ſweares to my prejudice, is to his own advantage, nor can a man by any equity in the world, bee admitted to teſtify againſt another, *in ſuam juſtificationem*,

The

The point ſeemed exceeding weighty, and in effect was the groundworke of the whole Article, which not proved, nothing could evince him to have beene acceſſory to the Conſequence. The upper Houſe therefore adjourned themſelves, and went up to their own Court, and after a very hot conteſtation betweene the factions, and above an houres ſtay, They returned and declared that the Lords after mature deliberation, had reſolved that the Copy ſhould not bee admitted, and deſired them to proceede to other proofes, which after a little pauſe they did,

Serjant Savil's copy of the Commiſſion rejected.

Firſt, the Lord *Ranelaugh* affirmes, that hee heard of ſuch a Warrant, and knew ſometimes three, ſometimes five Souldiers Billeted by it.

Secondly, Maſter *Clare* declares the very ſame.

Thirdly, Another Depoſeth hee had ſeene ſuch a Warrant under the Deputies Hand and Seale: And ſo much for the proofe.

For the Statute, they alleaged one of *Edw.* 3:6. that whoſoever ſhould carry about with them Engliſh Enemies, Iriſh Rebels, or Hooded-men, and ſeſſe them upon the Subject, ſhould be puniſhed as a Traytor. Another of *Hen.* 6.7. That whoſoever ſhould ſeſſe men of warre, in his Majeſties Dominions, ſhould be thought to make warre againſt the King, and puniſhed as a Traytor. They concluded, *It was evident the Lord* Strafford *had incurred the penalty and breach of both the Statutes, and therefore deſired the Lords ſhould give out judgement againſt him as a Traytor.*

The Lord Lievetenants Reply was,

That in all the courſe of his life, hee had intended nothing more, then the preſervation of the Lives, Goods and welfare of the Kings Subjects, and that hee dared profeſſe, that under no Deputy, more then under himſelfe, had there beene a more free, and un-interrupted courſe of Juſtice.

Strafford's Reply.

To the Charge hee anſwered.

Firſt, That the Cuſtomes of Ireland differed exceedingly from the Cuſtomes of England, and was cleere by *Cookes* book, and therefore, though ſeſſing of men might ſeem ſtrange here, yet not ſo there.

Secondly, That even in England hee had known Souldiers preſſed upon men, by the Preſidents of Yorke and Wales, in

caſe of known and open Contempts, and that both in point of Outlary, and Rebellion, and alſo even for ſums of Debt between party and party, there is nothing more ordinary then theſe Seſſings to this day in Scotland, whereby the chiefe houſe of the owner is ſeized upon.

Thirdly, That to this day there hath beene nothing more ordinary in Ireland, then for the Governours to appoint Souldiers, to put all manner of Sentences in Execution, which hee proved plainly to have beene done frequently, and familiarly exerciſed in *Grandiſons*, *Faulklands*, *Chicheſters*, *Wilmots*, *Corks*, *Evers*, and all preceding Deputies times : And had even for Outlaries, for the Kings debts in the Exchequer, of Collection, of Contribution money, and (which comes home to the point) for peteet ſoms of money between party and party, ſo that hee mervailed *quâ fronte*, or with what boldneſſe it could bee called an Arbitrary Government lately brought in by him.

To this the Lord *Dillon*, Sir *Adam Loftie*, and Sir *Arthur Teringham* depoſed ; the laſt of whom told, that in *Faulklands* time hee knew twenty Souldiers Seſſed upon a man for refuſing to pay ſixteen ſhillings ſterling.

Fourthly, that in his inſtructions for executing his Commiſſions, hee hath expreſſe warrant for the ſame, as were in the Inſtructions to the Lord *Faulkland* before him, both of which were produced and read.

Fiftly, That although all theſe Preſidents were not, yet it were not poſſible to governe the Kingdome of Ireland otherwiſe, which had beene from all times accuſtomed to ſuch ſummary Proceedings.

Sixtly, that no teſtimony brought againſt him can prove that ever he gave warrant to that effect, and for the Deeds of the Sarjeant at Armes, hee did conceive himſelfe to be anſwerable for it.

As for the Acts of Parliament, hee had reſerved them to the diſpute of his Lawyers, but was content to ſay thus much for the preſent.

Firſt, That it is a ground in the Civill-Law, that where the King is not mentioned, there hee cannot bee included. But (with all diſtance to his ſacred Perſon bee it ſpoken) hee conceived

ceived himſelfe to be in his Maſter the Kings place (for ſo his Commiſſion did run) in that Kingdome of Ireland.

Secondly, The words of the Statute are not applyable to him, for God knowes, hee never went about in Perſon to lay Souldiers upon any of the Kings Subjects.

Thirdly, That the Kings owne Souldiers, enquiring in a Cuſtomary way, obedience to his Orders, could in no conſtruction bee called Iriſh-Rebells, Engliſh-Enemies, or Hooded-men.

Fourthly, That the uſe and cuſtome of the Lawe, was the beſt Interpreter thereof, and for that hee had already ſpoken enough.

Fiftly, That it favored more of præjudice then equity, to ſtart out ſuch an old Statute againſt him, and none others, though culpable of the ſame fact, to the overthrow and ruine of him and his Poſterity.

Sixtly, That (under favour hee conceived) for any Iriſh Cuſtome, or upon any Iriſh Statute, hee was to bee judged by the Peeres of Ireland.

Seventhly, That Statute, of what force ſoever was Repealed.

Firſt, By the tenth of *Henry* the ſeventh, where it is expreſly declared, nothing ſhall bee reputed Treaſon hereafter, but what is ſo declared by the preſent Statute, now not a word there of any ſuch Treaſon.

Secondly, By the eleventh of queene *Elizabeth*, where expreſly power is given to the Deputy of Ireland, to ſeſſe and lay Souldiers, although the ſame bee reputed Treaſon in any other.

To the Statute of *Henry* the ſixt hee Replyed, that a ſlender anſwere might ſerve; Hee hoped that no man would thinke him ſo inconſiderate to warre againſt the King of Britaine and Ireland, by the ſeſſing of five Souldiers, that hee had beene charged by many for taking Armes for the King, but to that time, never for taking Armes againſt him: And that he heartily wiſhed that no man in all his Majeſties Dominions, had more practiſes with Rebels and Rebellious Deſignes againſt the King then himſelfe. So much for Thurſday.

'At the cloſe he deſired the intermiſſion of a day, that hee

'might recollect his ſpirits and ſtrength againſt the next quarrell,
'and with ſome difficulty obteined reſt till Satterday.

Upon Saterday Maſter *Palmer* proceeded to the ſixteenth Article, and Charged thus. *That the Lord* Strafford, *having eſtabliſhed a Tyrannicall and Independent Authority, by giving ſummary Decrees and Sentences, had deprived the Subject of all juſt Remedy; for in that Kingdome there was none ſupreme to himſelfe, to whom they might appeale; And leſt their juſt grievances might be made known to his Majeſty, hee had obteined a Reſtraint, that no Complaint ſhould be made of injuſtice or oppreſſion done there, till the firſt addreſſe had beene made to himſelfe, and that no perſon ſhould come out of that Kingdome but upon Licence obteined from himſelfe.*

Saterday Charge Article 16 by Maſter Palmer.

For Proofe of this,

Firſt, The Inſtructions were read, whereby that Reſtraint was permitted.

Secondly, The Proclamation, That all Noblemen, Gentlemen, Undertakers, Officers, or other Subjects that ſhould reſort into that Kingdome, ſhould not come from thence without a Licence from him.

Thirdly, That hee had reſtrayned the Earle of Deſmond, becauſe of a ſuit in Lawe depending betweene the Earle and himſelf, till publication of the ſame was paſſed.

Fourthly, That the Lord *Roch*, being informed againſt before the Starre-Chamber, he would not Licence him to come into this Kingdome, till the Sentence was paſſed againſt him.

Fiftly, That one *Marcatee*, having pretended a minde to travell, was denied a Licence.

Sixtly, That the whole Committe for the Parliament, was Reſtrained this laſt yeere by Deputy *Wansford*, which they ſaid might be interpreted to be his fact, both becauſe they had ſuch intelligence the one from the other, as alſo by the Proclamation iſſued by him before.

Seventhly, That one *Parry*, ſervant to Chancellor *Loftis* was fined five hundred pounds at his returne, for departing Ireland without Licence.

Eighthly, That the Iriſh Remonſtrance complained of this, as the greateſt innovation and thraldome put upon them ſince the time of the Conqueſt.

They

They concluded the Charge. *That by this meanes, having taken off that intelligence which ſhould bee betweene the King and his People, and having deprived them of that Remedy which in reaſon they might expect from ſo juſt and ſo Gracious a Prince, hee had taken upon him a Royall and Independent Power, and had faulted highly both againſt King and State.*

The Lievetenants Reply was:

That he hoped to make it cleere, that he had done nothing in that particular, but what was Uſuall, Neceſſary, and juſt, and that he ſhould be very well able (by the Grace of God) not only of that, but of all other his publique actions, to give a reaſonable Accompt, though not be free from much weakeneſſe, yet certainly from all Malice and Treaſon. *Straffords Reply.*

To the Particulars,

Firſt, For Inſtructions laid upon him, he was not ſo much Chargeable as thoſe of the Councell of England, whereof there was a great many preſent who could witneſſe their commands, But leſt any thing ſhould ſeeme unjuſtly enjoyned by them, or embraced by him, hee deſired that the reaſons of their Inſtructions might be read. which were; *That it were In-juſtice to complaine of Injuries, of Oppreſſion done in that Kingdome, till the firſt Deputies judgement were informed, and tryall made of his Iutegrity, that it would much diſcourage the Miniſters of State there, and expend the monies of that Kingdome, if upon every trifling buſineſſe, Complaints ſhould be admitted in England: And that if juſtiee were there denyed by the Deputy, it ſhould be lawfull for any man to come over.*

Secondly, For the Proclamation. that the ſame was builded upon the Statute of that Kingdome, the 25 of *Hen. 6.* which conteined the ſame Reſtraint *Verbatim.*

Thirdly, That *Anno* 1628. the Agents for the Iriſh Nation had Petitioned for the ſame from the King.

Fourthly, That the Deputy *Faulkland*, had ſet forth the ſame Proclamation.

Fiftly, that he had the Kings expreſſe Warrant for it, *Anno* 1634. which was read.

Sixtly, That he had received the Warrant in January, yet the Proclamation iſſued not out till September after.

Seventhly, That the whole Councell-Board of Ireland, had

had not only condiſcended, but alſo preſſed him to it.

Eighthly, The neceſſity of the Kingdome required the ſame, for, if the Gentlemen had the Ports open to goe to Spayne, and their Schollers to Doway, Rhemes or St. Omers, it were likely that at their returne they would put fire both in Church and State, and produce very ſad events, by practiſing to diſtemper both.

Ninthly, He conceived that the King, as great Maſter of the Family, might reſtraine whom he pleaſed from departing his Kingdome without his privity, and here it was not lawfull for any to goe from England without Licence, how much more neceſſary was this from Ireland.

To the Proofes he anſwered:

Firſt, For *Deſmond*, He granted he was Reſtrayned indeede, but not for any ſuit of Law betwixt them, but becauſe at that time he ſtood Charged with Treaſon before the Councell in Ireland, for practiſing againſt the life of one Syr *Valentine Cooke*.

Secondly, For the Lord *Roch*, he hath often times mervailed with what reaſon, the man at that time could ſeeke a Licence, ſeeing he was a Priſoner for debt in the Caſtle of Dublin, and if he had granted a Licence unto him then, it had beene a farre more juſt Charge of Treaſon then now.

Thirdly, For *Marcattee* he was afraid of his going to Spain and if he had told him that he intended to goe for England and complaine of himſelfe, he would not have refuſed him Liberty, as he never did to any.

Fourthly, That the Committee of Iriſh was not reſtrayned by him, and therefore did not concerne him at all.

Fiftly, That for *Parry*, he was fined indeede, But that it is expreſly ſaid in his Sentence, that it was not for coming over without Licence (as is ſuggeſted) but for ſundry contempts againſt the Councell-Board in Ireland.

Sixtly, That he had Replyed in the laſt Article, a Remonſtrance was no proofe at all; He concluded that he hoped the leaſt ſuſpition of Treaſon could not accrue to him from the Article; For Oppreſſion or Miſdemeanor, when it was laid to his Charge, he made no doubt but hee ſhould bee able to anſwere it.

The

The ſame day a new man was hurried out againſt him, (Mr. *Whitlock*) who having paſt over the 17 and 18 Articles, reſteth on the nineteenth, about the Oath adminiſtred to the Scotts, in Ireland, and Charged thus: Whitlocks *Charge Article* 19

That it was the height of his Tyranny, not only to dominiere over the Bodies, but alſo over the Conſciences of men, to which purpoſe hee had enjoyned an Oath to the Scots in Ireland, and becauſe ſome out of tenderneſſe of Conſcience did refuſe to take the ſame, hee had fined them in great ſommes of money, banniſhed a great nunber from that Kingdome, called all that Nation Traytors and Rebells, and ſaid, If ever hee returned home from England, he would roote them out both ſtock and branch. *Oath to Scotts in Ireland.*

For Proofe of this,

Firſt, Sir *Jãmy Mountgomery* was produced, who declared at large how that Oath was contrived.

Secondly, Sir *Robers Maxwell*, of Orchyardon, who ſpake to the ſame purpoſe.

Thirdly, Sir *Jo. Clotworthy*, who declared that a great number had fled the Kingdome for feare of that Oath.

Fourthly, One Mr. *Samuell*, who depoſed, that upon the tenth of October, 1638. He heard the Deputy ſay theſe words, That if hee returned, hee would roote them out ſtock and branch.

They Concluded, *That this was a point of the moſt Tyrannicall and Arbitrary Government, that before this time was ever heard of, not only to Lord it over the Fortunes, but alſo over the Soules of men, And that it reſted only in the Parliament, which hath the Legiſlative Power to enjoyne Oathes: And that therefore this was one of the chiefe points hee had done againſt the priviledges and Liberty of the Subject.*

The Lievetenant Replyed:

That every new Article acquainted him with a new Treaſon, that if hee had done any thing in all his life acceptable to the King and the Countrey, hee conceived it to bee this. To theſe Particulars: *Straffords Reply.*

Firſt, Hee deſired the Lords would call to minde the condition of thoſe times, no man (pointing to my Lord Steward) knowes better then your Lordſhippe, who had then the chiefeſt place in his Majeſties ſervice; I would be very ſory to

rub (ſaid he) old Sores, eſpecially ſeeing I hope things are in a fayre way to a firme Peace, and I wiſh that I may not bee deceived, that is, That it may be ſo, only thus much I may ſay, we had then greater feares and apprehenſions in Ireland, leſt the Scots in the Kingdome (who were above one hundred thouſand Soules) might have joyned with their Country men at home, for the diſturbance of our Peace, meane time we detected a Treaſon of betraying of the Caſtle of Knockfergus, to a great man in that Kingdome (whoſe name I now ſpare) by one *Freeman*, who upon the diſcovery was executed.

The Councell-Board therefore in Ireland reſolved to preſcribe the Scots an Oath, whereby they might declare their diſcontent at their Country-mens proceedings, and obliege themſelves to the Kings ſervice; But while we were about this; they, of their own accord, came to Dublin, to Petition for it, and tooke it with a wonderfull alacrity and heartineſſe, ſo that it is a marvelous falſhood for any man to ſay it was invented, or violently, enjoyned by me.

Secondly, about the ſame time, the ſame Oath *verbum verbo* was by the Councell of England preſcribed, to the Scots, at London and elſe where, which was no ſmall encouragement to us in Ireland.

Thirdly, I had (ſaid he) which I never ſhewed, becauſe I had no neede before this time, a ſpeciall Warrant from the King, all written with his owne hand to that effect; And when the King commands a matter not contrary to Law, truly I (ſaid he) doe conceive it both contrary to Law and Conſcience, not to yeeld him all due obedience. For the Proofe brought againſt him, there was nothing ſeemed to bee of any moment but the words.

For the firſt words, *That hee had called all the Nation Rebels and Traytors*, Hee ſaid there was no proofe at all, nor indeede could there be any, for if I had ſaid it (quoth hee) I had beene perfectly out of my witts; And, he thanked God, ſuch irrational-ſpeeches uſed not to eſcape him: Hee honoured that Kingdome very much, becauſe it was the native ſoyle of our dread Soveraigne, his gracious Maſter, and becauſe hee knew a part, yea (he hoped) the greateſt part of them had beene, and ever will be as loyall and dutifull to the King, as

any

any other of his Subjects; And of those too who had subscribed that unhappy combination, hee knew a great many had done it against their hearts and wills, and would bee ever ready upon occasion to remonstrate the same, by adhering to the Kings service: So that this accusation was nothing but a wrestling and perverting his words and meaning, of purpose to make him odious, and irritate a whole Nation against him.

For the other words, they were proved only by one witnesse, which could make no sufficient faith, and that witnesse too hee would evince, if not of perjury, yet of a notable mistake; For hee had sworne positively that hee had spoken these words the tenth of October, whereas hee was come out of Ireland into England the twelfth of September before, and was at London the one and twentith.

For those that had fled the Kingdome because of that Oath he knew none such, and if they did, they fled into Scotland, which might sufficiently argue their intentions and resolutions; For his part, if they were not willing to give that testimony of their Loyalty to their Prince, although hee had known of their departure, hee would have beene very loath to have kept them against their wills, but should have beene gladly rid of them, and have made them a Bridge to be gone rather then stay.

Upon Monday Master *Whitlock* proceeded to the 20 Article, and told him, that because the matter was intervenient, *& consimilis naturæ*, they had resolved to joyne the five next Articles together, because all of them tended to one point or period, that is, to shew what bad Designe he had to have subdued the Kingdomes both of Scotland and England by force of Armes, and to reduce them to that arbitrary Government he had lately introduced into Ireland.

Munday Article 20 the next 5 crowded together.

The Lievetenant intreated that they would proceede according to the order præscribed by the House, which was Article by Article; Hee said five Articles were many, the matter weighty, his Memory Treacherous, his Judgement weake.

It was bitterly replyed by Master *Glyn*, that it did not become the Prisoner at the Barre, to præscribe them in what

Glyns *Honny combe interposed.*

way they ſhould give in their Evidences.

Strafford's Reply The Lievetenant modeſtly anſwered, that if hee ſtood in his place, hee would perhaps crave the like favour, unleſſe his abilities did furniſh him with more ſtrength then he could finde in himſelfe; for his patt he was contented they ſhould proceede any way, alwaies provided they would grant him a competent time for Replying.

Then *Whitlock* went on and told the Lords, that ſomthing in thoſe Articles concerned the Scottiſh, ſomthing the Engliſh Nation, that which concerned the Scottiſh, hee reduced to five heads.

Firſt, *That the Deputy had ſaid at the Councell-Board, that the Scotts demands conteined ſufficient matter to perſwade to an offenſive Warre.*

Secondly, *That the ſame demands did ſtrike at the Roote and Life of Monarchicall Goverument, and were only to bee anſwered by the Sword.*

Thirdly, *That he had cauſed ſome Scottiſh goods and ſhips, to be ſeized on in Ireland.*

Fourthly, *That he had engaged the Iriſh Parliament, by their Declaration, in that warre againſt the Scotts.*

Fiftly, *That by all poſſible meanes, hee had put bad thoughts and ſuſpitions into his Majeſty againſt his Scottiſh Subjects, and laboured to make a National-quarell between them and England, which, if the Kings piety, and the Prudense of better affected Stateſ-men had not prevented, could not have beene ſoadered up againe without much blood.*

Concerning England, his ſpeeches were eyther before or after the Parliament.

Firſt, *Before his Creature and Boſom-friend Sir* George Ratcliffe, *he had ſaid to Sir* Robert King, *when hee was doubting how the King might have monies to pay his Armies, that the King had foure hundred thouſand pounds in his purſe, thirty thouſand men in the field, and his Sword by his ſide, and if hee wanted money afterwards who will pitty him.*

Secondly, *That his brother Sir* George Wentworth *had ſaid to Sir* Robert Berington, *upon the diſſolution of the laſt Parliament, that ſeeing the Engliſh would not grant ſupply to the King,*

it seemes they were weary of their Peace, and desired to be conquered a second time.

Thirdly, *That hee himselfe, upon a discourse with the Primate of Ireland. had said, that hee was much of the minde of those English Divines, who maintayned it lawfull for a King, having tryed the affection and benevolence of his People, and then denyed their helpe, upon an inevitable necessity and present danger of the Kingdome, that he might use his Prerogative for his owne supply, and the defence of his Subjects.*

Fourthly, *To the Lord* Conway, *in a discourse hee had said, that if the Parliament (meaning the last Parliament) should not grant a competent supply, that then the King was acquitted before God and Man, and might use the Authority put into his hands.*

Fiftly, *That hee did say at the Councell-Board, If the Parliament should deny to helpe the King, hee would take any other way he could for his Majesties service and assistance.*

His expressions after the Parliament were two.

First, *That the Parliament had forsaken the King, and that the King should not suffer himselfe to be over mastered by the frowardnesse, obstinacy and stubbornnesse of his People.*

Secondly, *That if his Majesty pleased to imploy Forces, he had some in Ireland that might serve to reduce this Kingdome.*

The Proofe for the Scots Particulars were these.

First, The Lord *Traquiere*, who was indeede very favorable to the Lord Lievetenant, and spake nothing to his disadvantage, but what was scrued from him, with much difficulty hee told them, That when hee gave in the demands, he heard him say that it was high time for the King to put himselfe into a posture of Warre, but that first all the Councell of England said the same as well as hee. Secondly, That it was a double supposition. First, that the Demands were truely given in. Secondly, That there was no other remedy left but Armes to reduce them.

Secondly, The Earle of Mortons testimony (being sick himselfe) was produced, and it was one and the same with the Article.

Thirdly, Sir *Henry Vane* was examined, who declared, that he had heard the Lievetenant to advise the King to an offensive Warre, when his owne judgement was for a Defensive.

Fourthly the testimony of the Earle of Northumberland, was

produced; which was the very ſame with Sir *Henry Vanes*.

Fiftly, The Treaſurer of England depoſed the ſame with *Troqniere*.

Sixtly, One *Beane*, from Ireland, told that hee had knowne Shippes ſeized on there, but by whoſe procurement or Warrant he knew not.

To the Articles about England,

Firſt, Sir *Robert King* and the Lord *Ranelaugh* depoſed the ſame, that Sir *Robert King* and the Lord *Ranelaugh* had heard Sir *George Ratcliffe* ſpeake thoſe words in the Article.

Secondly, Sir *Robert Barrington*, of Sir *George Wentworth*.

Thirdly, The Primates teſtimony (who is ſick) was the ſame with the Article.

Fourthly, The Lord *Conway* depoſed the ſame with this Article.

Fiftly, Sir *Henry Vane* depoſed, He had heard thoſe words ſpoken at the Councell-Boord.

For the Words ſpoken after the Parliament, to the firſt.

Sir *Tho. Jermyne*, Lord Newburg, Earle of Briſtoll, Earle of Holland, } were Examined, Briſtoll did mince the matter, But Hollands teſtimony was expreſſe, becauſe of the exceeding great Love he carried to the Man.

For the laſt, which were the moſt dangerous ſpeeches (about the reducing of this Kingdome) there was only Sr. *Henry Vanes* teſtimony who declared only thus, That hee had either thoſe words or the like.

Here ſome of the Lievetenants friends ſhewed themſelves.

1. The Lord *Savill* who deſired of Sir *Henry Vanes* to know whether he ſaid *their* or *this* or *that Kingdome*, and withall ſaid it was very hard to condemn a man for Treaſon upon ſuch peettit circumſtances.

2. The Earle of South-hamton deſired to know whether Sir *Henry Vane* would ſweare thoſe words poſitively or not, Sir *Henry* ſaid poſitively either them or the like, The Earle replyed that under favour thoſe or the like could not be poſitive.

3, The Earle of Clare deſired to know what could be ment by

by *this* Kingdome; for his part (he ſaid) he thought it meant of the Kingdome of Scotland, to which the word *this* might very well be relative, that Kingdome being only mentioned in the præceding diſcourſe. And that he was the more ready to bee of that opinion, becauſe he could not ſee by what Grammaticall conſtruction it could be gathered from his words, that he meant to reduce England, which neither then was, neither is now (God be thanked) out of the way of obedience, nor upon Rebellious courſes.

They at laſt concluded the Charge, *That the words were ſo monſtrous that to aggravate them, was to allay them, and therfore they would ſimply leave them to the Judgement of the Lords.*

The Lieutenants Reply was,

Straffords Reply.

That though the heaping up of thoſe Articles had put him to a great confuſion, yet he would endeavor to bring his Anſwere into the beſt method he could, and firſt he would reply to the Proofe, then add ſomething in generall for himſelfe, in what a hard taking and lamentable condition he was, to have his private diſcourſes, his moſt intimate and boſome friends, ſearch'd and ſifted to the leaſt circumſtance, that he might ſeeme guilty of that which, by God's aſſiſtance he ſhould never be.

To the Lord *Troqueeres* and the Deputies depoſitions, hee thought their proofes did not much ſtick upon him, for upon the ſuppoſitions, firſt that the demands were true, ſecondly, that they were not juſtifiable, thirdly, that no other courſe could prevaile: Hee could not ſee what other advice he could poſſibly give the King then to put himſelfe into a poſture of Warre, eſpecially ſeeing then there was frequent reports of the Scotts invading or entring into England, nor was he of any other minde then all the reſt of the Councell-Board.

For that of *Mortons*, he doth not poſitively remember the words, but if the demands were read perhaps they would imply nothing leſſe, and if ſo, how otherwiſe to be anſwered but by the Sword? All other meanes being firſt aſſayed, which is ever to be ſuppoſed.

For Sir *Henry Vane* and *Northumberland's* teſtimony, about perſwading of an offenſive Warre, he ſaid, Hee remembred

bred it very well, and thought it as free for him to give his opinion for an offenſive, as they for a defenſive Warre : Opinions (ſaid he) if they be attended with obſtinacy or Pertinacy may make an Heretique, but that they ever made a Traytor, he never heard till now, nor (under favour) ſhould I bee an Heretique eyther (ſaid he) for as I was then ſo am I now, moſt willing to acknowledge my weakeneſſe and correct my errors, whereof no man hath more, or is more ſenſible of them then my ſelfe : yet, if that opinion of mine had beene followed, it might perhaps have ſpared us ſome money (ſaid he) and ſome Reputation too, of which we have beene prodigall enough.

For the laſt, about the Ships, it proves nothing but he would willingly confeſſe, that ſome ſhips were there deteined and that by himſelfe and his owne direction, as Vice-Admirall of Connaugh, but it was at the command of the Lord Admirall the Earle of Northumberland, and produced his Letter to that purpoſe.

To the Engliſh proofes, He mervailed much how Sir *George Ratcliffs* words could be put upon him, Sir *George* (though alleaged to be his boſom friend) yet had thoughts of his own, and might have ſome other thoughts in his boſom, and be to ſome other Expreſſions then Sir *George Ratcliffe* : No man (ſaid he) can commit Treaſon by his Attorney, and ſhould I, by my friend Sir *George*, as by a Proxie.

For his Brother, He never knew him before ſo raſh, but that was nothing to him, except they could prove a neerer Identidy then nature had inſtituted, and that his brothers words and his were all one, yet withall he conceived that his Brothers words might be very well underſtood, of the Scotts conquering England, but not at all of the Iriſh, and ſo he wiſhed, with all his heart, that he had not ſpoken ſomthing which is like Propheſy.

To the Primates Teſtimony (with all reverence to his integrity be it ſpoken) he is but one witneſſe and in Law can prove nothing, add to this (ſaid he) that it was a private diſcourſe between him and me, and perhaps ſpoken by me *tentandi gratia*, and how farre this ſhould be laid to a mans Charge, let your Lordſhips Judge.

Yea

Yea, this ſeemes to me againſt humanity it ſelfe, and will make the ſociety of men ſo dangerous and loathſome to us, that our dwelling houſes will be turned to Cells, and our Townes to Deſarts : That which God and Nature, (our Tongues) have beſtowed upon us [for the greater comfort of venting our own conceptions, or craving the advice of wiſer and learneder men] ſhall become ſnares and burdens to us, by a curious and needleſſe feare, yet if my words be taken, ſaid he with all that went before and followed after, I ſee no danger in them.

To the Lord Conway I may Reply the ſame, with this addition, That it is a very naturall motion, for a man to preſerve himſelfe; every Creature hath this priviledge, and ſhall we deny it to Monarchy, provided this be done in a lawfull, though in an extraordinary way, this graine of ſalt muſt be added to ſeaſon all my diſcourſe.

To that of Sir *Henry Vane*, of offering my ſervice to the King, I thanke him for the Teſtimony, and thinke he hath done me much honour thereby, but if he or any body elſe doe ſuſpect that his Majeſty will employ me in unlawfull enterprizes, I ſhall think them more lyable to the Charge of Treaſon then my ſelfe.

To the ſubſequent Teſtimonies, I ſhall not neede to wreſtle about them much, only the laſt of Sir *Henry Vane* pinches, and lies ſore upon me, but to that which the Earle of Clare (and I thanke him for it) hath ſaid already, give me leave to add this, That the Teſtimony of one man is not a ſufficient witneſſe, nor can a man be accuſed, much leſſe condemned, of Treaſon, upon this, and for that reade the Stat. of *Hen* 7. 12. and of *Edw.* 6.5.

Now my Lords (ſaid he) to give you further ſatisfaction, I ſhall deſire all the Lords of the Councell, which were then preſent (only to the number of eight) may be examined whether they heard theſe words or not, for the Archbiſhop and Sir *Francis Windebanke* they cannot be had, Sir *Henry Vane* gives the teſtimony, I deny it, foure only remaine.

Firſt, the Earle of Northumberlands teſtimony, which was read, had declared expreſly that he had never heard thoſe words, nor any like them from the Lord Strafford, but hee

ſpake with great honour and regard to the Kingdome of England.

Secondly, the Marqueſſe *Hamilton*, who declared upon his oath, that hee had never heard ſuch words, but that hee had heard the Lievetenant often ſay, that the King was to rule his Royall power *Candidè & Caſtè*, that it would never be well for this Kingdome, till the Prærogative of the Crowne, and the Priviledge of the Subject went in one pace together, and that Parliaments were the happieſt way to keepe a correſpondency betweene the King and People.

The very ſame was delivered by the Lord Treaſurer, and the Lord *Cottington*.

Now, my Lords, you may mervaile how theſe words reſted only on the eares of Sir *Henry Vane*, but my Lords, ſaid hee, that I may remove all ſcruple from you, I will make it evident that there was not the leaſt intention that the Iriſh Army ſhould ſet a foote in England, and then I hope you will conceive that I had no meaning to reduce this Kingdom.

This he made cleere by the teſtimony of Northumberland, the oathes of Marqueſſe *Hamilton*, Lord *Cottington*, Lord Treaſurer, Sir *Thomas Lucas*, who only were private to that matter.

For other of my words my Lords (ſaid he) I deſire you would not take them by halves, if ſo, who ſhould be free from Treaſon? Certainly, if ſuch a præcedent take footing, Weſtminſter-hall ſhall be more troubled with Treaſon then with Common-Law, looke therefore to the Antecedents and Conſequents of my ſpeeches, and you ſhall finde the ſtate of the queſtion cleerly altered; the Antecedents were upon an abſolute or inevitable neceſſity, upon a preſent invaſion, when the remedy of a Parliament cannot be expected; the Conſequents for the defence of the Kingdome, with accompts afterward to the Parliament. The qualifications too in a lawfull, convenient, and ordinary way, ſo farre as the preſent neceſſity can permit. Add but theſe, and which of you are not of my mind? Is the King endowed with no power from the Lord? Is hee not *publicus Inſpector Regni?* Stands it not him in hand to do ſomthing on preſent neceſſities.

And that theſe were his words he often proved, over and over

ver againe, by the Marqueſſe, by the Lord Treaſurer, *Cottington*, Sir *Tho. Jermine*.

My Lords, what I have kept to the laſt (ſaid he) is this, and I would intreate you ſeriouſly to thinke of it; If a mans Table, his Bed, his Houſe, his Brother, his Friends (and that too after they have given an oath of ſecrecy) to be rak't to finde out Treaſon againſt him, who never knew what it meant, what earthly man ſhall paſſe free from Treaſon? Let my misfortune my Lords, be your advertiſement, your wiſe Anceſtors were glad to put bands and limitts to this Lion Treaſon, if you give him the large ſcope of words to range into, he will at laſt pull you or yours all to peeces.

But my Lords, I did never thinke till now, that matter of Opinion ſhould be objected as matter of Treaſon.

For, firſt opinions are free, and men may argue both *pro & con.* in all faculties without any ſtaine of his reputation, otherwiſe all conſultations would be vaine.

Secondly, I may be of another judgement then I declare my ſelfe to be of opinion, perhaps to gaine better Arguments for the maintenance of my owne Grounds.

Thirdly, Many, and my ſelfe often times, have propounded my Opinion, yet upon hearing better judgements, have preſently changed it.

Fourthly, We uſe to ſtrayne our opinions too high, ſometimes, that we may meete in a juſt moderation with thoſe whom we conceive in the other extremity to be too low.

Fiftly, It is expreſly commanded by the Stat. *Hen. 6 9.* that though a man ſhould ſay the King is not lawfull heire to the Crowne, and may be depoſed, yet he is not to be charged with Treaſon, but only with Felony, And I hope my Lords, thoſe words are of a more tranſcendent and ſuperlative nature, then any alleaged by me to he ſpoken: But my Lords (ſaid hee) lay it to your hearts, it muſt come to you, you and your poſterity are they whom God and Nature, Byrth and Education have fitted to beautify the Royall-Throne, and to ſuſteine the weighty affaires of the Kingdome, If to give your opinions in Politicall Agitatious ſhall be accounted Treaſon, who will be willing to ſerve the King, or what a dilemma are you in; If, being ſworne Councellors, you ſpeake not your minds freely

you are convict of perjury, if you doe, perhaps, of Treaſon. What detriment! what Incommodity ſhall fall to King and Kingdome, if this be permitted? Which of you hereafter will adventure, yea dare adventure, ſo much as to helpe by your adviſe, unleſſe you be weary of your lives, your eſtates, your poſterity, yea your very Honour; Let me never live longer then to ſee this confuſion, yea I may ſay it, this inhumanity in England, for my part (my Lords) I here confeſſe my ſelfe, I ever have, and ever ſhal ſpeake my opinion freely, in any thing that may concern the Honor and ſafety, eyther of my gracious King or my deere Countrey, though the ſword be two edged, fearing rather him that killeth the Soule, then him whoſe power reacheth only to the body.

Nor doe I ſee how I am culpable of Treaſon, unleſſe it bee treaſon for not being infallible, and if it be ſo, my Lords, you have this rag of mortality before you, loaden with many infirmities; though you pull this into ſhreds, yet there is no great loſſe, yea there may be a great gayne, if by the ſame I may ſeeme to have dared too farre, to give a teſtimony to the World of an Innocent conſcience towards God, and a Reſolute loyalty towards my Prince [which have ever beene my only Pole-ſtarres in the whole courſe of my life] and if by ſpilling of mine, there be not a way found how to trace out the blood of the Nobility (which I hope your Lordſhips will looke too) there is no diſadvantage at all ſuffered by the loſſe of me. You have his very words as neere as I could recollect.

Tueſday was a day of Reſt.

Wedneſday Whitlocks *Charge.*

Upon Wedneſday *Whitlock* Charged thus: *That the preceding Articles were of ſo high a conſequence, and of ſo tranſcendent a Nature, that nothing wanted to make up the perfect meaſure of the moſt horrid Treaſon, and monſtrous Attempt that ever, by a Native, was intended againſt his King and Country: But puting theſe deſigned projects into Execution, which had undoubtedly happned to the ruine and ſubverſion both of Church and State, had not the clemency & goodneſſe of the Prince, and the Piety and carefulneſſe of the well affected Peeres timouſly foreſeene and prevented the ſame; that ſtill the Principles of Tyrany and Oppreſſion had lodged within his boſome, and therefore had burſt forth into*

theſe

theſe expreſſions and adviſes conteined in the following Articles, where firſt, in the twenty fifth, they Charged him with three things.

Firſt, That hee had adviſed the King to a rigorous and unlawfull exaction of Ship-money.

Secondly, That he had given Councell, that if the Shreeves ſhould deny their beſt endeavors, and aſſiſtances to that effect, they ſhould bee ſent for and fined by the Starre-Chamber, and Impriſonment.

Thirdly, That when the Aldermen of London, had in all humility repreſented the Cauſes why the Ship-money could not be collected amongſt them, and had given in the Reaſons why they refuſed to give in a Liſt of their names, within their City, who were able to affoord the Loan-money; Hee in a contemptuous & Tyrannicall manuer, in the face of the Councell-Boord had ſaid to the King, Sir, Theſe men becauſe of their obſtinacy and frowardneſſe, deſerved very well to bee fined, ranſomed and layed by the heeles: And it will never goe well with your ſervice, untill ſome of them be hanged up for examples to other.

The Proofes were theſe:

Firſt, The Biſhop of London, Lord Treaſurer, who declared that he remembred the words very well, that the Lord Lievetenant had adviſed the King to cauſe the Ship-money to be gathered in, but he remembred withall, that both himſelfe and all the Councell had done the like, and that it was upon a preſent neceſſity, and defect of money, for entertayning the Army, which (the condition of the times conſidered) they all conceived, was by any meanes to bee kept on foote.

Secondly, Alderman *Wiſeman* declared, that upon an humble Remonſtrance made to the Councell-Boord, the City would take it ill, if a Tax-role ſhould be delivered of their eſtates, who were thought able for the Loan-money; the Lord Strafford ſaid, they deſerved to bee fined, ranſomed, and laid by the heeles, but for the words of hanging them up, hee heard not at all.

Thirdly, the Earle of Barkeſhire declared, that the Lord Strafford had ſaid, that upon the refuſall of ſuch a ſervice enjoyned by the Kings peremptory command, it was his Opinion, they might be fined.

Fourthly, Alderman *Garway* atteſted the preceding words, and withall added, that the Lord Lievetenant, to his beſt remembrance, had ſaid, It were well for the Kings ſervice if ſome of theem were hanged up.

They cloſed the Charge, *That by ſuch undutifull expreſſions, he had injured the propriety of the Subject, and had put ſuch a ſcontent upon the City, that they were the leſſe willing upon any occaſion to concurre for the advantage of the Kings ſervice.*

The Lievetenant Replyed:

Strafford's Reply.

Firſt, That though all the Charge were, in the moſt ſtrict and rigid way or ſence verified againſt him, yet hee could not conceive by what interpretation of Law it could be rech't home to high-Treaſon, And to that common objection (that the treaſon was not individuall but Accumulative) hee replyed that under favour he thought to that manner, were as much as to ſay, no Treaſon at all: Becauſe,

Firſt, That neither in Statute Law, Common Law, nor practiſe, there was ever, till this time, heard of ſuch a matter as Accumulative-Treaſon, or a Treaſon by way of conſequence, but that it is a word newly coyned to attend a Charge newly invented, ſuch an one as never was before.

Secondly, That treaſon was a thing of a ſimple and ſpecificative nature, and therefore could not be ſo by accumulation, but eyther muſt be ſo in ſome, or eyther of the Articles, or elſe could not be ſo at all.

Thirdly, *Hee did conceive that it was againſt the firſt principles of Nature, and falſe; therefore could not be ſo by Accumulation, but eyther muſt be ſo in ſome or each of the Articles, or elſe could not be ſo at all.* That a heape, or Accumulation, ſhould be and not be of Homo-geneous things, and thrrefore that which, in its firſt being, is not treaſonable, can never confer to make up an accumulative Treaſon. *Cumulus, an heape of Graine*, ſo called becauſe every, or at leaſt ſome of the iudividuals are graine; if otherwaies, an heape it may be, but not an heape of graine: Juſt ſo, perhaps theſe Articles may make up an heape of Felonies, Oppreſſions, Errors, Miſ-demeanors, and ſuch like (and to the thinge it ſelfe I ſhall give an anſwere when, under that name, they ſhall be Charged againſt me) but they can no waies conferre to the making up of Treaſon, unleſſe

leſſe ſome, at the leaſt, bee Treaſon in the Individuall.

Secondly, That the teſtimonies brought againſt him, were all of them ſingle, not two one way, and therefore could not make Faith in matter of Debt, much leſſe in matter of Life and Death; yea, that it was againſt the Statute expreſly, to impeach a man of high-Treaſon under the evidence of two famous witneſſes, much leſſe to adjudge and convince him upon atteſtation of one.

Thirdly, To the Lord-Treaſurors teſtimony, he did with all his heart condiſcend unto it, but upon theſe grounds only, that there was a preſent neceſſity of money, that all the Councell-Boord had ſo voiced with him, yea before himſelfe, and he allwaies thought it preſumption in a man, not to follow the wiſer and more judicious, And that there was then a Sentence of the Starre-chamber, for the right of paying Ship-money; for his part, he would never be more prudent then his teachers, nor give judgement againſt the Judges, And therefore he thought it not farre amiſſe to adviſe the King for the collecting of that, which by Law was his owne, in ſuch a preſent and urgent neceſſity, and although his opinion (and it was no more) had beene amiſſe, he hoped, that though in caſe of Religion, being attended with ſtubbornneſſe and pertinacy, it might come home to Hereſie, yet in his caſe opinion could not reach ſo farre as Treaſon; unleſſe it be Treaſon for a man to ſpeake his judgement freely, when he is upon his oath to doe the ſame.

Fourthly, For the words about fining, he had already acknowledged in his generall Anſweres to be true, but with theſe qualifications, that it was his opinion only, that it was upon the refuſall (as he conceived) of a juſt ſervice, that hee had ſpoken them, by no meanes to præjudice the Citizens, but to make them the more quick and active in the Kings ſervice: that no ill conſequence at all hapned upon them; that they were words might have beene ſpared indeede, but iunocently, though ſuddenly, ſpoken; which he hoped might proceede from a man of ſuch a haſty and incircumſpect humor as himſelfe (made ſo both by nature, and his much infirmity of body) without any minde at all to Treaſon, And that if all Cholle-rick expreſſions, of that nature, ſhould bee accounted treaſo-

nable

nable, there would be more ſuits, of that kinde, fly up and down Weſtminſter-hall, then Common-Law.

Fiftly, To thoſe words atteſted by the Alderman, hee poſitively denyed them, and hoped they ſhould never riſe up againſt him in judgement, becauſe the teſtimony was ſingle and not poſitive, but only to his beſt remembrance, and that it was exceeding ſtrange, that not any one man, neither of the Councell or other Aldermen were ſo quick to obſerve them, but only Alderman *Garway*, which he thought ſufficient to nullifie that ſingle teſtimony, except he could demonſtrate himſelfe to have ſome rare and ſingular faculty of hearing.

In the Cloſe, He deſired the Lords, from his misfortune, to provide for their own ſafety, and ſeriouſly to conſider what a way was chalked out to ruine them, both in their lives and their eſtates, if for every opinion given in Councell, or words ſuddainly or haſtily ſpoken, they (who are borne to weild the great affaires of the Kingdome) ſhould be arraigned and ſentenced as Traytors.

Then they went to the twenty ſixth Article and Charged thus:

Charge Article 26 *That the Lord Strafford, having by his wicked advices exhauſted the Kings Treaſury, did alſo Councell him:*

Firſt, To imbaſe the Coyne, by an allay of copper-money.

Secondly, To ſeize upon all the Bulloyne in the Mint.

Thirdly, That in diſcourſe with ſome of the Aldermen, about that buſineſſe, he had ſaid, the City was more ready to countenance and relieve the Rebells then the King; and that the King of France did uſe to mannage ſuch buſineſſes, not by Treaties or Requeſts, but by ſending forth his Commiſſaries to take Accompt of mens Eſtates, accompanied with Troopes of Horſes.

The Proofes were.

Firſt, Sir *Thomas Edwards*, who declared, that in diſcourſe with the Lord Strafford, having remonſtrated unto him, that their goods were ſeized on beyond Seas, becauſe of the money taken out of the Mint; he told him that if the Londoners ſuffered it, it was deſervedly, becauſe they had refuſed the King a ſmall Loane of money upon good ſecurity, and that he thought them more ready to helpe the Rebels then the King.

Secondly, Mr. *Palmer* declared that he ſpake ſomething about the

the King of France, but whether with relation to England or not, hee did not remember.

Thirdly, Sir *William Parkise* attested in the same words, and withall that the Lord *Cottington* was then present, and could declare the whole businesse.

Fourthly, Sir *Ralph Freeman* declared, that in a discourse with the Lord *Strafford* hee had said that the servants in the Mint-house would refuse to worke the Copper mony, And hee replyed, that then it were well to send those servants to the house of Correction.

They closed the Charge, *That by such undutifull Councell and words, hee had given more then sufficient proofe, of his Designe and purpose to subdue this Kingdome, and subvert the fundamentall Lawes, and priviledges of the same.*

The Livetenants Reply.

First, That he had expected some proofs about the two first particulars, but did heare of none, and that it was no small disadvantage to him, to bee charged with a great many odious crimes, by a booke printed, and flying from hand to hand, through the whole Kingdome, yet when they came to prove there should bee no such thing layd against him. *Straffords Reply.*

Secondly, About the Speeches. Hee ingeniously confessed that some such thing might perhaps have escaped the dore of his lipps, when hee saw their backwardnesse to his Majesties service, and as the times were then conditioned hee did not think it much amisse to call that faction by the name of Rebells, But yet hee thought hee had abundantly satisfied for that oversight, (if it was any) at Yorke: For having understood there that the Citty of London were willing to make a Loan of mony, he there before the great councell of the Peeres, expressed himselfe to this sence, That the Londoners had sufficiently made up all their delayes hitherto by their Act, that the King was obliged to their forwardnesse, and that hee himselfe should bee as ready to serve them as any poore Gentleman in England: About the other words hee said, that being in conference with some of the Londoners, there came at that time to his hands a Letter from the Earle of Leicester, then at Paris, wherein were the Gazets incloſed, reporting that the Cardinall had given some such order, as to leavy

mony by forces, This hee ſaid hee only told the Lord *Cottington* ſtanding by without the leaſt application or intention concerning the Engliſh Affaires, *Cottington* being examined upon this, declared the ſame in the ſame manner.

Thirdly, To Sir *Ralph Freeman*, hee ſaid, that his teſtemony did not concerne the Charge at all, nor did hee think any thing amiſſe in it, though hee had ſaid it; if the ſervants of the Mint refuſed to worke, according to directions they did deſerve the houſe of correction, nor was it Treaſonable to ſay the King might uſe that houſe for the correction of his ſervants, as well as any man in the Citty for theirs.

Fourthly, Hee ſaid that there was no great likelyhood that hee had committed reall Acts of Treaſon, when his adverſe party was content to trifle away ſo much time about words, neither was there any Treaſon in them, though they had beene fully verified, and therefore in that (as in all other Articles) hee reſerved a power for his Councell to diſpute in matter of Law.

They went to the twenty ſeveneth Article and charged thus,

charge Article 27 *That immediatly after his appointment to bee Livetenant to the Army here in England, hee ſhewed what Principles of Arbitrary government lurked within his boſome, for by his own immediate authority, without and againſt Law, hee had layd Impoſt of mony upon the Kings Subjects, where they mention three particulars.*

Firſt, That hee had impoſed 8.d. per diem, upon the County of York, for enterteining the trayne Band, there one whole Moneth.

Secondly, That hee had ſent out warrants for collecting the ſame, and threatned to impriſon ſuch as ſhould refuſe to pay.

Thirdly, That hee ſaid that it was a Crime nigh to the Crime of high Treaſon, Not to pay the ſame.

Fourthly, They added that in his generall Replyes, hee had brought two things for his defence, firſt, that this mony was freely and Voluntarily offered by thoſe in Yorke-ſhire; ſecondly, that the great councell of the Peers had notice of the ſame.

To the firſt they anſwered that a petition was indeede preferred by the Yorke-ſhire men, and a Moneths pay offered, but that the Lord Strafford *had refuſed to preſent the ſame upon this exception only, becauſe in the ſame they had petitioned for a Parliament whereby hee evidently declared what little Inclination he had to that way.*

To

To the second they appeald to all the Lords present whether any such order did passe, before the Councell of the Peeres at Yorke.

The Proofs were.

First, A Warrant issued by Collonell *Pennyman*, for this mony, and anorher by Sir *Edward Osborne*.

Secondly, Master *John Burrowes* who declared that hee was Clerke to the great councell but did remember of no order, and withall added that it might have passed at that time, when hee attended at Rippon,

Thirdly, Master *Dunston* who declared, that hee had known that mony Levyed by some Musquetiers.

Fourthly, By Sir *William Ingram* who declared that hee had heard the Liveteenant say, that to refuse the same, came nigh to the Crime of high Treason.

They concluded the Chrage that by these particulars, *It was more then evident what unhappy purposes and trayterous Designes hee had to subdue this Kingdome, and subvert the fundamentall Lawes and priviledges.*

Strafford's Reply.

First, To the Petition, That it was a true Petition, drawn up by the York-shire Gentlemen, and as true that hee had refused to present the same, because of that clause about the Parliament, but the matter was thus; At his Majesties comming to York it was thought necessary for the defence of that County, to keep the Trayned Bond on foote because the Enemy was upon the borders, and therefore the King directed him to write to all the free-holders in York-shire, to see what they would do for their own defence.

The time and place were designed by the King, but the night before the meeting, a small number convented, and in a private and factious way, did draw up that petition; upon the morrow at their appointed Dyet, in presence of the whole number, the Petition was presented to him, where hee did advise them to leave out that clause, and that because hee knew the King out of his own gracious disposition had intended to call a Parliament, which he desired should rather be freely done, then upon the constraint and Importunity of Petitions, moreover it would seeme a mercenary thing in them at one and the same time to offer a benevolence, and withall

to petition for his favour upon this Remonſtrance they were all willing to recall the Petition and directed him by word of mouth, to offer unto the King the moneths pay in their names, which hee did accordingly, in the preſence of fortie of them to their no ſmall advantage.

This hee proved by Sir *William Pennyman*, Sir *Paul Neale*, Sir *George Wentworth*, Sir *William Savill*, Sir *Thomas Danby*, who all of them declared as much in ample termes, and withall added that nothing was done upon better grounds, of neceſſity and obedience then the offer of that money, and that they never had heard any man grudge againſt it to this time.

For the ſecond, about the councell of Peeres, hee alleadged that hee never made mention of any order of theirs, but hee remembered very well it was twice propounded before them, that the King had approved it at that time a Juſt and neceſſary act, and none of the Councell had contradicted it, which hee conceived as a tacit approbation and an order in Equivalence.

But though that had not beene, yet there was nothing done in the buſineſſe, but at the ſpeciall deſires of the Gentlemen themſelves, & for their neceſſary defence & protection, yea though hee had done it by himſelfe alone, yet hee conceived hee had ſo much power by his Commiſſion, cauſing the Commiſſion to that effect to bee read: That albeit he ſhould miſtake his Commiſſion and doe ſome inferiour Act beyond it (becauſe Military proceedings are not allwayes warranted by the Common Law) yet it ſhould not bee imputed as an Act of Treaſon to him.

And to this effect read a Statute of the ſeveneth of *Henry* the ſecond.

To the Proofs.

Firſt, Collonell *Pennymans* warrant, or Sir *Edward Oſbornes*, it nothing concerned him, and hee doubted not but theſe worthy Gentlemen could Juſtifie their own Act, and that hee had enough to doe to anſwer his own Miſdemeanors.

Secoudly, For Sir *John Burrowes*, hee was at Rippon when that Propoſition was made.

Thirdly, That as the warrant, ſo neither the Execution troubled him at all.

Fourthly,

Fourthly, For Sir *William Ingram*, hee was but a ſingle teſtimony and that ſuch an one too as hee could produce an evidence to teſtifie, hee had miſtaken himſelfe in his teſtimony upon oath, if it were not to diſadvantage the Gentleman.

Hee concluded that hee had done nothing in that buſineſſe, but upon the petition of that County, the Kings ſpetiall command, the connivence at leaſt of the great councell, and upon a preſent neceſſity for the defence and ſafety of the County. And ſo much for Wedneſday.

Upon Thurſday the Committee for the charge, declared that they had done withall the Articles, and were content to wave the laſt for reaſons beſt known to rhemſelves, only Sir *Walter Earles* added that hee had ſome obſervations to bring forth, upon the two and twenteeth Article which hee conceived might doe much, to prove the Lord *Straffords* deſignes for Landing the Iriſh forces in England. *Thurſday. Charge Sir* Walter Earles *Obſervations.*

And they were.

Firſt, That in his Commiſſion hee had power to land them in Wales, or in any part of England, or in Scotland, which were all together ſuperfluous unleſſe there had beene ſome purpoſe for the ſame.

Secondly, That within two dayes before the date of the Commiſſion, Letters were ſent to the Lord Bridgewater, *and* Pembroke *from Sir* Francis Windebanke *to aſſiſt the Earle of Worceſter, in Levying forces for the Kings ſervice, and theſe might bee ſuppoſed to have intended a joyning with the Iriſh.*

Thirdly, That the Lord Ranelaugh *at the raiſing of the Iriſh Army, did feare, ſuch a Deſigne as this.*

Fourthly, That the towne of Ayre in Scotland, where the Lord Strafford *pretended he would land thoſe forces, was fortified with a Bulworke, a Garriſon, and Block-houſe which would prohibit landing there, that the Earle of Argiles bounds were divided thence by the Sea, and that the Barr or entrie into the towne, was very dangerous and ſhallow.*

The Proofes were only the reading of the Commiſſion granted to the Lord *Strafford.*

The Livetenants Reply.

Firſt That his Commiſſion was the ſame *Verbatim* with Northumberlands for Eugland, and that it was drawn up by

the Councell board heere, and sent over unto him; So no more designe in him then in the Gentlemen of the English Army, nor no larger then that was put upon him.

Secondly, That this was the first time hee heard of any such Letters, nor did they concerne him more then any of the House.

Thirdly, That hee was not bound to purge the Lord *Ranelaugh* from all his feares, and that he had his own feares too, which God forbid should be evidence of Treason against any man, whatsoever.

Fourthly, That it seemed the Gentleman had better Information from that Kingdome then himselfe, yet hee would be confident to say at Ayre, there was never such a thing as a Block-house or Garrison. But to remove all scruples, (for indeede the Roade or landing place is not there safe) hee declared that it was his intention to have landed some miles above Ayr, and made only his Magazine of that towne.

To the Earle of Argiles bounds hee hoped the Gentleman knew, they came not on foot out of Ireland, but had shipps to waft and transport themselves and that one of his prime Houses (Rosneth) was within some few miles of the same frith.

The Lord *Digby* finding Sir *Walter Earles* on ground did handsomely bring him off, and told the Lords that all their proofs for that Article were not yet ready, that this was a Superfœtation onely, of the charge, and that in such a businesse as the plotting of Treason, they must be content sometimes, with darke Probabilities.

Glyns charitable speech.

Then Master *Glyn* desired the Livetenant to resume his defence, that they might give a repetition of their Charge, and so close the processe so farre as concerned the matter of Fact.

Straffords Reply.

Hee replyed that in his case all slacknesse is speede enough, the matter touched him narrowly even in his life and estate, yea in that which hee esteemed above them both, his honour and his posterity, and therefore hee confessed hee had no desire to ride post in such a businesse. That hee knew the Gentlemen at the Barre, if they were in his case would think the time little enough, except their more able Judgements could sooner dispatch the matter in hand, And therefore hee humbly intreated

intreated that that day might be granted to him for ſtrengthening himſelfe, and recollecting his thoughts and ſpirits, and to morrow he would be ready with his laſt Replies for himſelfe, which after a little Ceremony and conteſtation, was condiſcended unto by the Houſe of Commons.

Upon Friday morning, about eight of the clock, the Lievetenant of the Tower, and my Lords chamber-Groome came to the Hall, and gave information to the Houſe, upon Oath, that the Lord Strafford was taken with an exceeding great paine, and fit of the Stone, and could not upon any conditions ſtirre out of his Bed. *Friday he was hindred from coming by a fit of the ſtone.*

Maſter *Glyn* Replyed, That it was a token of his willfullneſſe, not his weakeneſſe, that hee had not ſent a Doctor to teſtifie the ſame. *Glyn againe.*

The Lord Steward made anſwere, that a Doctor could not be had perhaps ſo ſoone in the morning, nor was it poſſible for any Phiſitian to give a certaine judgement concerning a mans diſabilitie by the Stone; Becauſe there is no outward Symptomes that appeare.

Maſter *Glyn* excepted, That if he did not appeare upon Satterday morning, he ſhould loſe the priviledge to ſpeake in his owne defence afterwards, and they permitted to proceede.

The Lord Steward Replyed, that the Lords had appointed foure of their number to goe to the Tower and learne the juſt cauſe of his ſtay, and if by any meanes he were able, he ſhould be oblieged to come then, if not, Humanity and common equity would excuſe him.

'In the afternoone it was reported that he was dead, of which 'there can be no better reaſon given, then the Humor and Ge- 'nious of the times, that dally with nothing oftner then untruths, 'and calumnies; And certainly there are many men of ſhallow 'underſtanding, and weake affections, who eyther will not; or 'cannot underſtand the Gentlemans worth, but out of fearefull 'and needleſſe apprehenſions, are ſo deſirous to heare of his ruine 'any way, that their buſie tongues will dare to anticipate the 'ſtroake of Juſtice. *Report of my Lord Strafford's death.*

Maſter *Glyn* proffers new proofes concerning the two and twentith Article.

Upon Satterday morning he preſented himſelfe at the Barre, where *Satterday.*

where he expected nothing but repetitions of Charges and Defences, but meane while Maſter *Glyn* proffers ſome new proofes concerning the two and twentith Article, which the noble Lord refuſed, alleaging the Proceſſe was cloſed; Maſter *Glyn* anſwered, the Proceſſe is not cloſed, as long as the buſineſſe ſtands unrepealed; And that it did not become a Priſoner at the Barre to preſcribe a Method of proceeding to the Houſe of Commons in England.

It was anſwered by the Lord Lievetenant, that he thought it ſtood him in hand as neerely to maintain his life, as it did any to purſue him for it, yet he was willing they ſhould bring in new proofes, provided that he might have time to make new Replies, and withall uſe ſome new witneſſes in ſome Articles, that concerns his juſtification.

The Lord Newarke, upon theſe motions deſired the Houſe might be adjourned; after two houres ſtay, and a hot conflict among the Lords, they returned, and the Lord Steward commanded the Order to bee read, which conſiſted of two Articles.

Firſt, That it was granted unto them to bring in proofes concerning the two and twentith Article, ſo it was to the Lord Strafford to make his Replies, and uſe his witneſſes concerning the ſame.

Secondly, That if they went to no more Articles, no more ſhould the Lord Strafford; but if they did, that hee might pitch upon any one Article as he pleaſed.

The Houſe of Commons preſently declined all other Articles, and conceived the Order expreſly for them, reſtrayning him from all other Articles, except that only.

He conceived the Order was for him, and ſaid, that ſeeing they had pickt out their Article, it was againſt all common Equity to tie up his hands, and not admit of a common rule for them both; They replyed, that when the Article was canvaſed they reſerved witneſſes till another time; Hee anſwered, that he had done the ſame upon every Article; They Replyed that the Houſe had refuſed his Reſervation; He anſwered, nor had they paſſed an Order for theirs.

Upon this new conteſtation the Houſe roſe againe, and was adjourned. It is ſuppoſed that the Houſe of Commons had the better

ter ground, becauſe they had particularly named their witneſſes in their Reſervation, The Lord Strafford not ſo, they preſſed but one Article, hee many : But ſuch was the pleaſnre of the Lords, that though the matter did not deſerve to bee much ſtood upon, yet after two houres vehement agitation of the buſineſſe in the upper-houſe, they returned, and the Order was in his favour to this effect.

Firſt, That both of them ſhould wave their new ptooſes, and goe immediatly to that which followes.

Secondly, If they would not doe ſo. the Lords conceived themſelves common Judges to both, and therefore would not deny Strafford the liberty of pitching upon what Article hee pleaſed, as they had done.

Thirdly, That both of them ſhould name their witneſſes at the Barre inſtantly.

The Commons were much grieved at this, yet deſired him to nominate his witneſſes, if he would make any benefit of the Order ; He anſwered that he would nominate after them, becauſe they were firſt in order ; they replyed that he knew their Article, they not his : He ſaid hee was to bring prooſes about the ſecond, fift, thirteenth, and the fifteenth Articles, and did deſire them that they would now proceede to nomination.

But they told him they could not embrace the Order, without advice of the whole Houſe, then on a ſuddaine, a mighty noyſe followed of the whole Houſe, Withdraw, Withdraw, and was in ſo uncouth and tumultuous a confuſion, that it produced both admiration and feare in the beholders, wherein we might eaſily feele the pulſe of a diſtempered State ; both the Houſes brake up, not apointing ſo much as the next Diet, each mans countenance ſpake anger and diſcontent, and nothing ſounded in our eares all Sunday but terrors and affrightments, of a preſent diviſion and breach betwixt the two Houſes ; That the Houſe of Commons would declare him a Traytor, and all ſuch Lords too, as were his adherents, That he ſhould be no more heard in publique, That (though parties and not his Peeres) they would vote in his Sentence, That a Bill of Attainder ſhould preſently be drawn up againſt him, and that nothing could content them but preſent execution, Big words flew up and down all Monday.

Munday ſpent in a conference betwixt both Houſes.

That whole day was ſpent in a conference betwixt the Houſes

without any meeting in the Hall, but the Lords (who had learned as it ſeemes to force their owne ruine by his misfortune, and now conceive that Monarchy and Nobility are of ſuch Identidy, that one and the ſame is the diminution of both(kept faſt to their concluſion and would not paſſe from their Order, notwithſtanding all the many dangers repreſented, ſo that the houſe of Commons were conſtrained, at laſt, to give way, and embrace the firſt part of the Order, by waving witneſſes on both ſides.

This hath beene no ſmall diſcouragement to his Enemies, for a more reall Demonſtration of his party amongſt the Lords, could not have beene ſhewn.

Upon Monday, ſome of the Lords went ſo high in their heate, as to tell the Houſe of Commons, that it was an un-naturall motion for the head to be governed by the tayle, That they hated Rebellion as bad as Treaſon, That the ſame blood that ennobled their Anceſtors, did move alſo in their veines, and therefore they would never ſuffer themſelves to bee ſuppreſſed by a popular faction.

After a great deale of ſtorme all was (as well as might be) ſoadered up againe, and Tueſday appointed to be the day for the Lievetenant to reſume his Defences, for then their Charge, without any more proofe, to be uſed on eyther ſide.

Tueſday Upon Tueſday the Lord Steward, at the entrie told them the Lords had Ordered, that both their teſtimonies ſhould be waved that they ſhould proceede immediatly to what followed, ſo that that day might put an end to what concerned the matter of Fact.

Straffords Reply. The Lord Lievetenant Replied, That in all humility and obedience, he would ſubmit himſelfe to that or any other their Decrees whatſoever, though it ſhould reach as farre home unto him as his owne life; but withall humbly begged, That if hereafter hee ſhould be troubled (for they were to ſpeake laſt) with new matter, or with ſupplementall Proofe, hee might have leave to ſpeake ſomething in his owne Defence.

The Lord Steward anſwered, It was all the reaſon in the world.

The Lievetenant went on thus:

MY LORDS,

This day I ſtand before you Charged with high-Treaſon, the burthen is heavie, yet farre the more, in that it hath borrowed the Patrociny of the Houſe of Commons; If they were not Intereſſed, I might expreſſe a no leſſe eaſie, then I doe a ſafe iſſue and good ſucceſſe to the buſineſſe: but let neyther my weakeneſſe pleade my Innocence, nor their power my guilt. If your Lordſhips will conceive of my Defences, as they are in themſelves, without referrence to eyther (and I ſhall endeavor ſo to preſent them) I hope to goe away from hence as cleerly juſtified, as I am now in the teſtimony of a good Conſcience, by my ſelfe: My Lords, I have all along my Charge watched to ſee that poyſoned arrow of Treaſon, that ſome men wonld faine have to be feathered in my heart, and that deadly cup of wine, that hath ſo intoxicated ſome petty miſalleaged Errors, as to put them in the elevation of high-Treaſon, but in truth it hath not beene my quickneſſe to diſcern any ſuch Monſter yet within my breaſt; though now perhaps, by a ſiniſtrous Information, ſticking to my cloathes: They tel me of a two fold Treaſon, one againſt the Statute, another by the Common-Lawe; this direct, that conſecutive; this individual, that Accumulative; this in it ſelfe, that by way of conſtruction. *My Lord Straffords laſt ſpeech in the Hall*

For the firſt, I muſt and doe acknowledge, that if I had the leaſt ſuſpition of my owne guilt, I would ſpare your Lordſhips the pains, caſt the firſt ſtone at my ſelf, & paſſe Sentence of condemnation againſt my ſelfe: And whether it be ſo or not, I refer my ſelfe to your Lordſhips judgement and Declaration: You, and only you (under the favour and protection of my graciousMaſter) are my Judges, under favour none of the Commons are my Peeres, nor can they be my Judges; I ſhall ever celebrate the providence and wiſdome of your noble Anceſtors, who have put the keyes of Life and Death (ſo farre as concerns you and your poſterity) into your own hands, not into the hands of your inferiours: None but your own ſelves know the rate of your noble blood, none but your ſelves muſt hold the ballance in diſpencing the ſame.

I ſhall proceede in repeating my Defences, as they are reduceable to theſe two maine points of Treaſon, and for Treaſon againſt the Statute (which is the only Treaſon in effect) nothing is alleaged for that, but the fifteenth, two and twentith, and twenty ſeventh Articles. Here he brought the ſum of all his Replies made to theſe three Articles before, and almoſt in the ſame words as before; only that teſtimony of Sir *Henry Vanes*, becauſe it ſeemed preſſing, he ſtood upon it and alleaged five Reaſons for the nullifying thereof.

Firſt, That it was but a ſingle teſtimony, and would not make Faith in a matter of Debt, much leſſe in a matter of Life and Death, yea that it was expreſly againſt the Statute to impeach (much leſſe to condemn him) upon high-Treaſon, under the teſtimony of two famous witneſſes.

Secondly, That he was dubious in it, and expreſt it with an as I doe remember, and ſuch, or ſuch like words.

Thirdly, That all the Councell of eight, except himſelfe, diſclaime the words, as if by a ſingular providence they had taken hold of his eares only.

Fourthly, That at that time the King had levied no forces in Ireland, and therefore hee could not bee poſſibly ſo impudent as to ſay to the King that hee had an Army there which hee might imploy for the reducing this Kingdome.

Fiftly, That he had proved by witneſſes beyond all exceptions (Marqueſſe Hamilton, the Lord Treaſurer, the Earle of Northumberland, Lord *Cottington*, Sir *William Pennyman*, and Sir *Arthur Terringham*) that there was never the leaſt intention to land thoſe Forces in England. Hee went on

So much for the Articles that concerne Individuall Treaſon.

To make up the Conſtructive-Treaſon, or Treaſon by way of Accumulation; Many Articles are brought againſt me, as if in an heap of Felonies or Miſdemeanors (for in their conceit they reach no higher) ſome prolificall ſeede apt to produce what is treaſonable, could lurke: Here I am charged to have deſigned the ruine and overthrowe both of Religion and State: The firſt ſeemeth rather to have beene uſed to make me odious then guilty, for there is not the leaſt proofe alleaged concerning my confederacy with the Popiſh-faction,

nor

nor could there be any indeede; never a ſervent in Authority beneath the King my Maſter, was ever more hated and maligned by thoſe men then my ſelfe, and that for an Impartiall and ſtrict executing of the Lawes againſt them.

Here your Lordſhips may obſerve that the greater number of the witneſſes uſed againſt me, eyther from Ireland or from Yorkeſhire, were men of that Religion: But for my owne Reſolution (I thanke God) I am ready every houre of the day to ſeale my diſaffection to the Church of Rome, with my deereſt blood.

But, my Lords, give me leave here to poure forth the griefe of my Soule before you, theſe proceeding againſt me ſeeme to be exceeding rigorous, and to have more of præjudice then equity, that upon a ſuppoſed Charge of my Hypocriſy or Errors in Religion, I ſhould be made ſo monſtrouſly odious to three Kingdomes; A great many thouſand eyes have ſeen my Accuſations, whoſe eares ſhall never heare, that when it came to the upſhot I was never accuſed of them, Is this fayre dealing amongſt Chriſtians? but I have loſt nothing by that: Popular applauſe was ever nothing in my conceipt, the uprightneſſe and integrity of a good Conſcience, was and ever ſhall be my continuall feaſt; and if I can be juſtified in your Lordſhips judgements from this grand imputation (as I hope now I am, ſeeing theſe Gentlemen have throwne downe the Bucklers) I ſhall account my ſelfe juſtified by the whole Kingdome, becauſe by you, who are the Epitomy, the better part, yea the very Soule and life of the Kingdome.

As for my Deſigne againſt the State, I dare pleade as much Innocency here, as in matter of my Religion: I have ever admired the wiſdome of our Anceſtors, who have ſo fixed the pillars of this Monarchy, that each of them keepe a due proportion and meaſure with other, and have ſo handſomly tyed up the nerves and ſinnews of the State, that the ſtrayning of any one may bring danger and ſorrow to the whole œconomy. The Prærogative of the Crowne, and the Propriety of the Subject, have ſuch mutuall relations, this takes protection from that, that foundation and nouriſhment from this. And as on the Lute, if any one ſtring be too high or too lowly wound up, you have loſt the Harmony, ſo here the exceſſe of

a Prerogative is oppreſſion of pretended Liberty in the Subject, Diſorder and Anarchy. The Prærogative muſt be uſed as God doth his omnipotency, upon extraordinary occaſions; the Lawes (anſwerable to that *potentia ligata in Creaturis*) muſt have place at other times : And yet there muſt be a Prærogative, if there muſt be extraordinary occaſions; the Propriety of the Subject is ever to be maintayned, if it goe in equall pace with this : They are fellowes and companions that have and ever muſt be inſeparable in a well governd Kingdom; and no way ſo fitting, ſo naturall to nouriſh and entertayne both, as the frequent uſe of Parliaments : By thoſe a commerce and acquaintance is kept, betwixt the King and Subject, theſe thoughts have gone along with me theſe fourteene yeerers of my publique employments, and ſhall God willing to my Grave; God, his Majeſty, and my owne Conſcience, yea and all thoſe who have beene moſt Acceſſory to my inward thoughts and opinions can beare me witneſſe, that I ever did inculcate this; That the happineſſe of a Kingdome conſiſts in a juſt poize of the Kings Prærogative, and the Subjects Liberty. And that things would never goe well till They went hand in hand together.

I thanke God for it, by my Maſters favour, and the providence of my Anceſtors, I have an eſtate, which ſo interreſſeth me in the Common-wealth, that I have no great minde to be a ſlave, but a Subject; nor could I wiſh the Cards to be ſhuffled over againe, upon hopes to fall upon a better Set : nor did I ever nouriſh ſuch baſe, mercenary thoughts, as to become a Pander to the Tyranny and Ambition of the greateſt man living : no, I have and ever ſhall aym at a fayr, but a bounded Liberty, remembring allwaies that I am a free-man, yet a Subject : that I have a Right, but under a Monarch. But it hath beene my misfortune now when I am gray-headed, to be Charged by the Miſtakers of the times, who are now ſo highly bent, that all appeares to them to be in the extreme for Monarchy, which is not for themſelves : Hence it is that deſignes, words, yea Intentions are brought out for reall Demonſtrations for my miſdemeanors, ſuch a multiplying glaſſe is a præjudicate opinion.

The Articles conteine Expreſſions and Actions : My Expreſſions

preſſions eyther in Ireland or England : My Actions eyther before or after theſe late ſtirres (in this order he went through the whole Charge, from the firſt Article to the laſt, in an excellent Method, and repeated all the ſummes and heads of what was ſpoken by him before , only added in the twenty eighth Article) if that one Article had beene proved againſt him, it conteined more weighty matter then all the Charge beſides : And it had not only beene Treaſon in him , but alſo vilany to have betrayed the truſt of his Majeſties Army. Yet becauſe the Gentlemen had beene ſparing (by reaſon of the times) to inſiſt upon that Article , though it might concerne him much, hee reſolved to keepe the ſame Method, and not utter the leaſt expreſſion that might ſeeme to diſturbe the happy agreement intended, though he wiſhed the ſame might deceive his expectation : only thus much he admired, how himſelfe, being an Incendiary againſt the Scotts, in the twenty third Article , is now become their Confederate in the twenty eighth Article, or how hee could be Charged for betraying New-Caſtle, and for fighting with the Scots at Newbourne too , ſeeing fighting with them was no poſſible meanes for betraying the Towne, but to hinder their paſſage thither.

That hee never adviſed Warre farther (then in his poore judgement) concerned the very life of the Kings Authority, and the ſafety and honour of his Kingdomes : Nor ſaw hee what advantage could be made by a Warre in Scotland, where nothing could be gained but many hard blowes : For his part, he honoured the Nation, but he wiſhed they might be ever under their owne Clymate, and had no deſire they ſhould be too well acquainted with, the better ſoyle of, England : but hee thought that Article had beene added in jeſt, or as a ſupernumerary, and he very little ſuſpected to be reaconed a Confederate with the Scotts, and wiſhed (as hee hoped it was) that every Engliſh-man were as free from that imputation as himſelfe [cloſing his Defence with this ſpeech.]

My Lords, You ſee what may be alleaged for this Conſtructive, rather Deſtructive Treaſon. For my part, I have not the judgement to conceive that ſuch a Treaſon is agreeable either with the fundamentall grounds of reaſon,or Lawe ; not

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of Reaſon, for how can that be Treaſon in the lumpe or maſſe, which is not ſo in any of the parts? Or how can that make a thing Treaſonable, which in it ſelfe is not ſo: Not of Lawe, ſince neither Statute, Common-Lawe, nor practiſe, hath from the beginning of this Government ever mentioned ſuch a thing; and where, my Lords, hath this fire, without the leaſt appearance of any ſmoake lien hid ſo many hundred yeeres, and now breakes forth into a violent flame to deſtroy me and my Poſterity from the Earth? My Lords, do we not live by Lawes, and muſt we be puniſhed by Lawes before they be made? Farre better were it to live by no Lawes at all, but to be governed by thoſe Characters of diſcretion and virtue, that Nature hath ſtamped in us, then to put this neceſſitie of Divination upon a man, and to accuſe him of the breach of Lawe before it be a Lawe at all. If a Water-man upon the Thames ſplit his Boate by grating on an Anchor, and the ſame have a Buy appending to it, he is to charge his owne Inobſervance, but if it hath none, the owner of the Anchor is to pay the loſſe.

My Lords, if this Crime which they call arbitrary-Treaſon, had beene marked by any diſcerner of the Lawe, the ignorance thereof ſhould be no excuſe for me, but if it be no Lawe at all how can it in rigour or ſtrictneſſe it ſelfe condemn me: Beware you doe not awake theſe ſleeping Lions, by the ſearching out ſome neglected Moth-eaten Records, they may one day teare you and your Poſterity in peeces: It was your Anceſtors care to chaine them up within the Baracadoes of Statutes be not you ambitious to be more skilfull and curious then your fore-fathers in the Art of killing.

My Lords, it is my preſent misfortune, for ever yours; and it is not the ſmalleſt part of my griefe, that not the Crime of Treaſon, but my other ſinnes (which are exceeding many) have preſented me before this Barre, and except your Lordſhips wiſedomes provide for it, it may bee the ſhedding of my blood, may make way for the tracing of yours; You, your eſtates, your Poſterities lie at the ſtake. If ſuch learned Gentlemen as theſe, whoſe tongues are well acquainted with ſuch Proceedings ſhall be ſtarted out againſt you, if your friends, your Councell denied acceſſe unto you, if your profeſſed enemies

mies admitted to witneſſe againſt you, if every word, Intention or Circumſtance of yours be ſifted and alleaged as Treaſonable, not becauſe of a Statute, but becauſe of a Conſequence, or conſtruction of Lawyers peeced up in an high Rhetoricall ſtraine, and a number of ſuppoſed probabilities: I leave it to your Lordſhippes conſideration to fore-ſee what may bee the iſſue of ſuch dangerous and Recent Præcedences.

Theſe Gentlemen tell mee they ſpeake in defence of the Common-wealth, againſt my Arbitrary Lawes, give me leave to ſay it, I ſpeake in defence of the Common-wealth, againſt their arbitrary-Treaſon, for if this latitude be admitted, what præjudice ſhall follow to King and Countrey, if you and your Poſterity, bee by the ſame, diſenabled from the greateſt affaires of the Kingdome; for my poore ſelfe, were it not for your Lordſhips intereſt, and the intereſt of a Saint in Heaven who hath left me here two Pledges on Earth, [At this his breath ſtopt, and he ſhed teares abundantly, in mentioning his wife, which moved his very Enemies to Compaſſion] I ſhould never take the paines to keepe up this Ruinous Cottage of mine, it is loaden with ſuch infirmities, that in truth I have no great pleaſure to carry it about with me any longer: Nor could I ever leave it in a better time then this, when I hope the better part of the World would perhaps thinke, that by this my misfortune I had given a teſtimony of my Integrity to God, my King and Countrey: I thanke God, I count not the afflictions of this preſent life compatable to that glory, which is to be revealed in the time to come.

My Lords, My Lords, my Lords, Something more I had to ſay, but my Voice and Spirits fayle me, only I doe in all humility and ſubmiſſion caſt my ſelfe down before your Lordſhips feete, and deſire that I might be a Pharos to keepe you from Ship-wrack; doe not put ſuch Rocks in your owne way, which no prudency, no circumſpection can eſchue or ſatisfie, but by your utter ruine; and whether your judgements in my Caſe (I wiſh it were not the Caſe of ye all) be eyther for life or death, it ſhall be righteous in my eyes, and receaved with a *Te Deum Laudamus*, (and then he lifted up his eyes and ſaid) *In te Domine confido, nè confundar in æternum.*

'This hee ſpake with an Imitable life and grace, you have 'his very words as neere as I can remember, only with 'ſo much loſſe and detriment as hath periſhed by tranſcri- 'bing the Coppy from his owne mouth, But you deſire im- 'partialitie, and indeede you have it, and with ſome graines too 'of allowance, for I was ſo affrayd of my own affection to the 'Gentleman, that I rather bowed to the other extremity, and 'therefore have ſet down his defenccs rather to his diſadvantage 'by my rude pen, then in the native colour, to his eternall glory, 'and the Confuſion of his Enemies.

The Repetion of the charge did not ſpend much time, they proceeded orderly Article by Article, in the very ſame words and matter as before, only there were ſome remarkable flaſhes that paſſed from Maſter *Glyn* (who was the man) in the time of their handling.

Hee told them that hee ſhould repreſent the Lord *Strafford* as cunning in his reylys as hee had beene crafty in his Actions, that hee waved all that was materiall, and inſiſted only upon the Secondary Proofs, that it was more then evident throughout all his charge how hee had endeavored to bring in an Arbitrary and Tyrannicall forme of Government over the lives, the lands, and liberties, of the Kings Subjects, yea had exerciſed a tyranny over their conſciences too, by the oath adminiſtred in Ireland, and though his Malicious Deſignes had taken no effect, yet no thanks to him, but to the goodneſſe of the King and the Vigilancy ofthe Peeres, had they pleas'd, it had beene too late to have puniſhed him, for no rule of Law had beene left whereby to Cenſure him, after the death and expiration of the Lawes, And if the Intention of *Gvido Faux* might bee thought Treaſon, though the Houſe was not blown up, then this Intention of his may admit the ſame cenſure.

Hee cloſed that throughout all his defences hee had pretended either warrants from the King, or elſe the Kings Prærogative, and what was this elſe but to draw up a cloude, and exhale the Vapour for the eclipſing of the bright Sonne, by the Jelouſies or Repinings of his ſubjects; if the ſtrength of his piety and Juſtice ſhould not diſpell all theſe miſts and ſend them down to their originall, That the very ſtanding and falling of theſe three Kingdomes ſtood upon this Proceſſe, All of which doe conceive their

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ſafety ſo farre intreſſed in his juſt punniſhment; that no ſetling of their peace or quiet could bee expected, without this, that they hoped the Law ſhould never protect him, who had gone about to ſubvert all Law; Nor the Nobility (who had the ſame blood moving in their veines) by ſubmitting themſelves to his baſe Tyranny, looſe that priviledge and liberty, which their Anceſtors had bought with their deereſt lives. Though there was no Treaſon for his Stat. was it the leſſe Monſtrous? For there was none for ſo many hundreds of yeares that durſt ever adventure upon ſuch Inſolencies, to occaſion ſuch a Statute: And were not the fundamentall grounds, and rules, and government ſufficient to riſe up in Judgement againſt him; without the making a particular Statute: This hee ſaid hee left to the diſpute of the Law and concluded, That ſeeing they had found out the Jonah who theſe many yeares had toſſed and hazarded the Ship of the Common-wealth, with continuall ſtormes and tempeſts; there could no calmes bee expected, but by caſting him out into the Seas, which in all Juſtice they muſt and doe expect from their hands, who are intruſted by the body of the Kingdome to doe the ſame. The Aggravation of the offence hee ſaid, hee had left to Maſter *Pym*, who here ſpake that Speech which is now in Print.

'It was a ſport to ſee how Maſter *Pym* in his Speech was 'fearefully out, and conſtreined to pull out his papers and reade 'with a great deale of confuſion and diſorder, before hee could 'recollect himſelfe; which failing of his Memory was no ſmall 'advantage to the Lievetenant, becauſe by this meanes, the houſe 'perceived it was a premeditated flaſh, not grounded upon the 'Lievetenants laſt anſwer, but reſolved on before, whatſoever 'hee ſhould ſay for his own juſtification, but the Lievetenant 'was nor ſuffered to Reply a word either to *Glyn* or *Pym*. Be'cauſe the laſt word muſt bee theirs. And ſo with Tueſday end'ed the matter of Fact.

On Thurſday the diſpute in Law is expected.

Upon Wedneſday wee were bigg with expectation for the matter of Law, having done before with the matter of fact, but it ſeemes the houſe of Commons had perceived a great Defection of their party, and a great increaſe of the Lord *Straffords* freinds, in both the houſes occaſioned by his inſinuating, honeſt

and witty defences, and therefore they resolved of no more hearing in publique, therefore it was thought upon by his accusers to draw up a Bill of attainder, and present the same to the Lords, whereby first the matter of fact should bee declared to have been sufficiently proved, and then in the matter of Law that hee had incurred the censure of treason, for intending to subvert the fundamentall Lawes of the Kingdome, for though (said they) hee cannot bee charged by Letter of Statute of the twenty fift of *Edward* the third. yet hee is within the compasse of the *Salvo*, whereby it is provided that the King and Parliament hath power to determine what is Treasonable and what not, and that they were confident the Lords would ratify, and approve of this Bill of theirs and give Judegment accordingly.

The motion was stoutly opposed by three great Lawyers (all members of the House) *Seilden*, *Holborne* and *Bridgeman*, who made it manifest that the *Salvo* 25 of *Edward* 3 was repealed and that no man could now be convict of Treason, but by the Letter of that statute: But being put to voice it was carryed for the Bill, and a Committee appointed for to draw it up.

This gave occasion of much talke abroad and they who were otherwise the Lord *Straffords* enemies could not finde equity enough in the Bill of Attainder. Some could not conceive what difference Imaginable was betwixt the Bill and the Charge, presented before, for in the Charge hee was accused of Treason; and the Bill (though they had no Legislative power,) seem'd nothing but an Affirmation of the same. Others (who would have the Bill understood of a Definitive sentence, because it was consecutive to the Proofs) were not satisfied but that it was against all practice, that the Commons should give sentence upon the death of a peere And that it was against Common equity too; that the party accusant should give the Judgement, if the complayners were admmitted to bee Judges; A third sort gave it out that this was no Sentence against the Lord *Strafford* but only a passing of a new act of Parliament about a matter not hitherto declared Treasonable, but yet these doubted that by declaring the matter of fact, to bee approved, and applying the censure to it, in reference to the Lord *Strafford* it would ever be thought a Sentence against him, to blemish his own

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ſame and the blood of his poſterity, Moreover that if they were about to make an new act, it were ſtrange to puniſh a man for the breach of ſuch a Statute as was not yet extant in *Rerum naturâ*, which ſhould in reaſon referre only to future obedience, And (what is more ſtrange) though there were a new Statute; yet by what Authority the Parliament hath or could declare any Individuall or Accumulative Act which is allready to bee Treaſonable, which muſt bee Treaſon by virtue of a Statute; or elſe no Treaſon at all, now there is none can bee brought except the twenty fift of *Edward* the third whereof the Letter of that Statute cannot by their own Confeſſion, nor was not ſo much as once alledged againſt the Lord *Strafford*; and for the *Salvo* or Proviſo (which they mainly inſiſted on) the ſame ſtands repeald by two poſteriour Acts of Parlyament.

You have the Mutterings of all ſorts of People.

The Lords fearing the proceedings as a beaten path troden out to the ruine of their own Lives and Eſtates, told the houſe of Commons in their conference upon Thurſday that they would go on the ſame way they did already, and according to the order of the houſe give full audience to the Lord *Straffords* councell in matter of Law, and that they themſelves, as competent Judges, would by themſelves only give Sentence in the cauſe, nor was there any courſe ſuteable to the practice and Stat. of the Kingdome, the ſafety of the Nobility, or to Equity or Common Juſtice.

It was replyed by them of the lower Houſe, that they were reſolved to go on with their Bill, and if the ſame ſhould bee rejected by the Lords, they feared a Rupture and Diviſion might follow, to the utter Ruine and Deſolation of the whole Kingdom, that no content would be given to the ſubject, (And this was a ſtrong Argument indeed, yet better beſeeming Partiality and violence, then the pretended Juſtice and piety of the times) unleſſe the man who had ſo much intruded vpon their right, and diſcontented the people, might bee puniſhed as a Trayter; And for the practice of the Kingdome, that no man had ever found ſuch a Favourable hearing, and that the Proceſſe againſt Eſſex, Norfolk, and Somerſet, were all of them cloſed up in one day.

Upon Friday the Lords gave anſwer that they could expect

nothing from the Houſe of Commons, but what ſhould tend to the peace and Preſervation of the Kingdome, nor was there a more forceable way then to preſerve the Lawes and Cuſtomes thereof, leaſt innovation ſo much complained of by them, might unhappily be found among themſelves that the ſubjects ſhould have all that Juſtice could afford, but that an act of Injuſtice would never give ſatisfaction to the world, nor ſafety to themſelves, the eyes of all forraigne States being fixed vpon the buſineſie now in agitation, and the wiſdome of our Nation either to bee much advanced or depreſſed by their Judgements in this caſe; That the Proceſſe againſt Norfolk and Eſſex, (for Somerſet was convict only of fellony and had not ſo much Animadverſion to ſave himſelfe by his Booke) were for Direct and formall Treaſons, compriſed in one or two Individuall Acts, but this againſt the Lord *Strafford* only Arbitrary and Accumulative, to bee pict out of the twenty eight Articles. And therefore that it was impoſſible to have a full examination of them all, to give Sentence againſt him, And thoſe noble men were charged with ſome Actuall breach of Statutes, formerly made, but heere a new Staute was to be made or elſe hee to bee found guiltleſſe, They concluded that they had given order for his appearance on Saterday, And that in the great Hall at Weſtminſter where the Houſe of Commons might if they pleaſed bee preſent.

After ſome deliberation with the Houſe, the Conferrers anſwered, that ſince the Lords had ſo reſolved, they would not deny to bee there preſent, and to heare what his Councell could ſay for him, but to reply any more in publique they neither could nor would, becauſe of the Bill allready paſt, only if the Lords ſhould take any ſcruple in the matter of Law, they would bee ready to give them ſatisfaction by a private Conferrence, (ſo they willingly declined to doe what indeede they could not poſſibly doe) that is, to give publique ſatisfaction in the matter of Law.

Upon Saterday they conveened in the great Hall, but they that were of the Committee, for the great charge did not ſtand at the Barre, as before, but ſat promiſcuouſly with the reſt of their fellowes, ſo that a mouth was not oppened in the behalfe of the Houſe of Commons, all that day: After they

were

were set, the Lord Steward told the Lievetenant, that the Lords had resolved to give him a faire hearing in the matter of Law, And therefore desired that the councell might keepe that distance, Moderation and respect, to the Judicatorie, that was fitting, and not at all to meddle with the matter of fact.

The Lievetenant Replyed, That in all humility hee did acknowledge that favour from the Lords, and that it was such an one too, as hee could not but expect from such Honourable Peeres, and Just persons, in whose integrity and goodnesse, (under that which hee had placed above) hee had reposed his chiefest confidence; for his councell they knew much better then himselfe, what concerned the point of Discretion and Reverence, and that hee doubted not but that they would give all satisfaction and obedience.

Then his Councell were called to the Barre,
Master Lane *the Princes Attourney,*
Master Gardiner *Recorder of London,*
Master Loe, *and Master* Lightfoote:
Master Lane *spake, and much to this Sence and Purpose.*

My Lords there is an heavy Charge lyeth on me and my fellowes, nothing lesse then to defend the life, the estate, the Reputation, yea the posterity of this Honourable person at the Barre, If therefore wee shall bee more pressing we hope your Lordshipps will interpret this our forwardnesse to bee for Honour and Conscience sake, in a matter that concerneth both so neerely; But it shall bee our endeavour to carry our selves with our best respects to your Lordships, and withall content and satisfaction to the honourable House of Commons, and because your Lordships mentioned the matter of fact, one thing I dare bee bold to say, that all the time of this Noble Lords defences, hee did not so much as crave any one of our opinions, yea or acquainted us with any thing that tended that

way

way : And for the matter of Lawe, thoſe Statutes cited by himſelfe, were none of our ſtock, but taken up at his owne adventure ; Nor doe I ſpeake this to derogate from the pertinency of thoſe Statutes (for they ſhall be the ſubject of my diſcourſe) but that the Noble-man be not diſappointed of your right conceptions, and his own due praiſe.

My Lords, It is your pleaſure we meddle not with matter of Fact, and indeede we neede not meddle at all with it, becauſe we hope it is already done, and that ſufficiently to our hands, yet the matter of Lawe doth ſo naturally ariſe out of the matter of Fact, that of neceſſity (under your Lordſhips favours) wee muſt ſomewhat grate on this, if we ſpeake of that, nor doe I conceive it poſſible for us to ſpeake advantageouſly enough for the Lord Straffords juſt defence, unleſſe the whole matter of Fact be determined, eyther as proved or not proved, or at leaſt ſome ſtates of queſtions agreed upon, where we may fixe and ſettle our Agreements, and therefore it is my Lords, that I have choſen not at all to touch the matter of Lawe (untill your Lordſhips ſhall be pleaſed to chalke me out a way) unleſſe it be to cleere your judgements in one Statute only, *viz* 25. *Ed.* 3. becauſe when the ſame was alleaged by the Lord Strafford in his owne Defence, that not being convict of the Letter thereof, he could not be convict of Treaſon : I remember the *Salvo* of that Statute was much inſiſted upon by thoſe from the Houſe of Commons, as much conducing to their own ends. My Lords, I will firſt ſpeake of the Statute it ſelfe, and then of its *Salvo* or Proviſion : The Statute is, (That if any man ſhall intend the death of the King, his Queene, their Children : Kill the Chancellor, or the Judge upon the Bench, imbaſe the Kings coyne, or counterfeit the broad-Seale, &c. hee ſhall be convicted and puniſhed as a Traytor) that the Lord Strafford comes within the Letter of this Statute is not ſo much as once alleaged, nor indeede it cannot bee with any reaſon, All that can be ſaid is, that by Relation or by Argument *a minore ad majus*, he may be drawn thither, yet that this cannot bee, I humbly offer theſe conſiderations.

Firſt, This is a Declarative Law, and ſuch are not to be taken by way of Conſequence, Equity or Conſtruction, but by the Letter only, otherwiſe they ſhould imply a contradiction to them-

themſelves, and be no more Declarative-Lawes, but Lawes of Conſtruction, or Conſtitutive.

Secondly, This is a pœnall Lawe, and ſuch (if our grounds hitherto unqueſtioned hold good) can admit of no Conſtructions or Inferences, for pœnalties are to perſwade the keeping of known Lawes, not of Lawes conjecturall, ambiguous, and by conſequence, which perhaps the moſt learned may not in their diſputes queſtion, much leſſe the Subject (who is not oblieged to interpret the Statute) doubt of in the point of obedience, yea rather without any doubt, hee is to obey the Letter of the Statute, and conceive (and that truly) that hee is not lyable to the Pœnalty.

Thirdly, We have a notable Lawe 13 *Eliz. Cap.* 2. whereby it is declared, that the bringing in of Bulls from Rome, to ſtirre up the Subject to Mutiny and Rebellion, ſhall bee puniſhed as Treaſon: Now if by interpretation or by conſequence, this ſence might have beene thruſt upon the præceding Statutes, the making of this had beene ſuperfluous, yea the Perſons then charged with that Crime, might have beene impeached of Treaſon, even before the making of this Act.

Anno 21 of *Ed.* 3. Wee have a Statute declaring, That for a ſervant to kill his Maſter, is an Act of Treaſon, and in the three and twentith yeere of the ſame King, a Proceſſe of Treaſon was framed againſt a man for killing his Father, grounded upon the ſame Argument *A minori ad majus*: But it was found (and the Sentence is yet in the Records) that although in the 21 yeere of *Ed* 3. that Argument might have beene admitted, yet in the 27 it could not, by reaſon of the Declarative Lawe, interveining in the 25 yeere, and this Caſe comes very home to the point in Lawe.

My Lords, I will not demand what kinde of offence it may be, for a man to ſubvert the fundamentall Lawes of a Kingdome, the Crime doubtleſſe is unnaturall and Monſtrous, and the puniſhment muſt keepe the ſame proportion, only I preſume to offer theſe few things to your Lordſhips conſiderations.

Firſt, That one or more Acts of Injuſtice, whether maliciouſly or ignorantly done, can in no ſence of Lawe be called the ſubverſion of the fundamentall Lawes; if ſo, as many Judges (perhaps) ſo many Traytors, It is very incident to mans nature to

erre, nor doth the Lord Sttafford pleade his innocency in oversights, but in Treason.

Secondly, I doe remember the Case of *John de la Poole*, Duke of Suffolke, this man in the twenty eighth of *Henry* the sixt, was Charged by the house of Commons, with Articles of Treason, and those too very like to these against my Lord Strafford.

1. That he had given the King bad advices.
2. That he had embased his Coyne.
3. That he had cessed men of warre.
4. That he had given out summary Decrees.
5. That he had Imposed Taxes.
6. That he had corrupted the Fountains of Justice.
7. That he had perswaded the King to unnecessary warre, and to the giving over of Anjoy in France, *Ovum Ovo*.

And for all these, though he was Charged with high-Treason, for wronging the right of the Subject, and subverting the fundamentall Lawes of the Kingdome, yet after a long Agitation, the matter was found by the Lords of Parliament, not to imply Treason, but only Felony. Add to this another, who in the twenty third of *Henry* the eighth, was Charged for subverting the English Lawes, and yet no Treason Charged upon him. Add to both the Charge of *Richard Larks*, pleaded at the Common-Pleas, who was Charged with Treason, for subverting the Lawe, but convicted only of Felony, by which you may see, My Lords, what to this time hath beene subverting the Lawes.

Thirdly, It is very considerable, that the Lord Strafford is not Charged to have subverted, but only to have intended to subvert the fundamentall Lawes, and this I conceive, if there were no more, might keepe him free from that Statute of the twenty fift of *Eaward* the third: For although as touching the King, his Queene and Children, intention is treasonable; yet in all other things there mentioned, there must be action beside intention, for it is not said, if a man doe intend to kill a Chancellor, it shall be Treason, but only if he doth kill him; and if hee doth actually counterfeit the broad-Seale,, And although a man should prepare a Furnace, make ready his Stampe, melt his Bullion, yet if he gives not the Kings impression vpon the Coyne, all his intentions, yea, his præparations will not serve to make up a Treason.

And

And this (under fauour) may ſerve to anſwere the Caſe of *Guido Faux*, lately objected, unleſſe it be alleaged that the Lord Strafford had as reall an intention againſt the Kings life as *Faux* had, : For though the intention in that Caſe be Treaſon by the Statute, yet in all other things there is no Treaſon without the Action, ſo immence and vaſt a difference both is, and ought to be, betwixt a project againſt the Royall-blood, and all things elſe of a lower and under nature.

Yee ſee therefore my Lords, that the body of the Statute cannot ſtick againſt the Lord Strafford, neither in Letter, nor in conſequence, this is not, that muſt not be ; all that can be ſaid is, that his Fact may be Treaſon by the Common-Lawe : For my part I profeſſe my ignorance, who ever thought the common-lawe might declare, but never make a Treaſon, that is ; It might bee preſuppoſed that there is a Statute whereupon to build a Declaration, and therefore to ſay there is no Statute for it, is to ſay it is no Treaſon at all. The Statute ever makes the Treaſon : and to be declared to be Treaſon, either by Common-Lawe, or by Parliament, are but two different waies of Proceedings, and muſt both reſolve into one Principle, yea, which comes home to the point, in the one and twentith of *Edward* the third. To kill a man imployed in the Kings Warre was Treaſon, and the twenty third, To kill the Kings Meſſenger was Treaſon by Declaration of the Common-Lawe, but alwaies by reaſon of the Statute, yet none of theſe are now Treaſons but Felonies only, by reaſon of the interveining Statute the twenty fift of *Edward* the third, ſuch hath ever beene thought the force of its Letter and Declaration, And ſo I will leave it, and ſpeake a word or two of the *Salvo*, which is this. That becauſe all Particulars could not bee then defined, therefore what the Parliament ſhould declare to be Treaſonable in time to come, ſhould bee puniſhed as a Treaſon.

And according to this Reſervative, in the eighth yeere of King *Richard* the ſecond, one was Charged before the Kings Bench, was afterward referred to the Parliament, and there, though the Fact was not conteined in the body of the Statute, yet becauſe of the Proviſo afore mentioned, it was adjudged Treaſon.

In the eleventh yeere of the ſame King, the Duke of Ireland,

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In the eleventh yeere of the ſame King, the Duke of Ireland,

and *Nevill* Arch-biſhop of Yorke were impeached of high-Treaſon, by Glouceſter, Arundell aud Warwick, and notwithſtanding the Statute, were convicted thereof by the *Salvo*. But in the one and twentith of the ſame *Richard* the ſecond, the tide turned, and the King had ſuch a hand with the Parliament, that the Sentence was recalled, and thoſe three noble-men themſelves adjudged Traytors. Againe, in the firſt of *Henry* the fourth his Succeſſor, that Revocation of the one and twentith of *Richard* the ſecond was repealed, and the Sentence of the eleventh of his Reign eſtabliſhed; ſuch were the toſſings too and fro of Treaſon, and all becauſe of that uncertain *Proviſo*.

Therefore it was, That in the ſame Parliament, the firſt of *Henry* the fourth, A Petition was preferred by the Nobility, to have Treaſon limited within ſome Statute.

Becauſe they knew not what to ſpeake or what to doe, for feare thereof, And in the tenth Chapter an Act was made, upon this Petition, that that *Salvo* ſhould be holden Repealed in all times to come, and nothing eſteemed Treaſon but what was Litterally conteined in the Statute of the twenty fift of *Edward* the third, and therefore it is ſaid in the Records, That there was great joy at the making of this Act, in that the drawn Sword hanging over every mans head, by this ſlender thred of a conſequence, or illation, was moved by that Act. Add to this, that in the firſt of queen *Mary*, the firſt chapter, the ſame is repeated, That no man ſhall be puniſhed in life or eſtate as a Traytor, but for the Crime conteined in the Stat. 25 *Ed.* 3. without the leaſt mention of a pretended *Salvo*.

The Earle of Northumberlands Caſe comes nigh to the point, he was Charged with Treaſon, the fift of *Henry* the fourth, and if the Statute of the firſt of *Henry* the fourth, the firſt chapter, whereby this Proviſo is Repealed had not interveend, no doubt he had beene condemned of Treaſon, but he was only convict of Felony, and that becauſe he could not be drawne within the Letter of the Statute of the twenty fift of *Edw.* the third, And I dare confidently ſay it, that ſince that Act was made, the firſt of *Henry* the fourth, the firſt chapter, whereby the Proviſo is Repealed, no man hath ever beene declared a Traytor, eyther by King or Parliament, except it were upon that or ſome other Statute, litterally, and declaratively taken. Theſe two things I doe offer to

your Lordſhips conſiderations : That the Lord Strafford cannot be impeached of Treaſon by the Statute of the twenty fift of *Ed.* the third, and that the *Salvo* conteined in the ſame, ſtands Repealed almoſt two hundred yeeres agoe, And this is all I conceive to be neceſſary for that Statute which was alleaged by the Lord Strafford in his Defence for matter of Fact.

Then the Recorder ſpake ſome few words to this purpoſe, That what was ſpoken upon the Statute; was becauſe it ſeemed inſeparable from the matter of Fact, that they could proceede no further till a State were afforded them, that to doe otherwiſe they conceived might bee very præjudiciall unto my Lord Strafford. *The Recorder.*

Firſt, In that they ſhould ſuppoſe that to be done, which is not proved to be.

Secondly, That the matter of Law ariſeth ſo naturally from the matter of Fact, that it will be impoſſible to ſeparate one from the other.

Thirdly, That it is the courſe of all Judicatories, firſt to ſettle the Verdict. and upon that to fixe the Arguments, otherwiſe hee could conceive no poſſible way of proceeding, And therefore, in the Lord Straffords name, he moſt humbly entreated, that the Lords would either wholly determine the matter of Fact (or whether Treaſon or not; for then all other proceedings in Lawe were unneceſſary, but whether done or not done) or elſe to give them ſome States of the queſtion whereunto they might confine themſelves.

'Upon this motion the Houſe was adjourned for that day, 'nor hath it met ſince, for the Houſe of Commons are turned to 'their old bias, and will heare of nothing but the Bill of Attain-'der, but the Lords ſeeme to be more reſolute then before, be-'cauſe they finde that they have no Authority to declare a Trea-'ſon in a fact already paſt, the *Salvo* of the twenty fift of *Edward* 'the third being Repealed, withall that if the Bill of Attainder 'ſhould proceede, the King hath as great power to hinder that at 'the laſt blow as any other Stat. but I hope the Lords will disbur-'then him of that envie.

'All they which ſtand oblieged to the Lord Strafford, in blood 'affection, or deſerving, and all who have beene intereſſed with 'him in the Kings ſervice, and many too, who both hate his per-

'ſon and diſlike his proceedings, will doubtleſſe looke to it, and 'tender their owne ſafety, all of them in likelyhood being ſub-'ject to the Charge of Treaſon if ever they chance to be called to 'doe the King ſervice in any place of importance.

'I cannot expreſſe how much the voice of the multitude is 'now altered from what it was lately, nothing now talked of 'what ſhould be done, but only of what muſt be done: ſo that 'if the Lord Strafford dies, his very enemies will confeſſe that it 'is done more for neceſſity then for Juſtice, and rather for the 'ſatisfaction of rancorous apprehenſions, then for any guiltineſſe 'in the Cauſe.

Thurſday. Thurſday laſt (*viz.*) *Aprill* 29. was deſigned for the Agitation of the long intermitted buſines concerning the Lievetenant, And the way was this.

The formality of a conference. The Lords did meete at the great Hall at Weſtminſter, about nine of the clock, not in their Robes, nor did the Lord Steward ſit upon his ſack, but with the reſt promiſcouſly, nor did the Committee for the Houſe of Commons, ſtand at the Barre, but ſat with the reſt of their fellowes, and the Earle of Strafford ſat behinde the place where he uſed to ſit before, The reaſon of theſe changes were, becauſe the Diet was appointed, not for a meeting but for a Conference, ſo curious are we (and that's all) about formalities: The King, Queene and Prince were there, according to their cuſtome, not a man ſpake a word in the houſe all the time, but only Maſter *St. John* the Kings Sollicitor, one of the Committee, whoſe drift and purpoſe was to furniſh the Lords with reaſons why the Houſe of Commons had proceeded with a Bill of Attaindor: And withall to reply to what the Lord Strafford had ſpoken, eyther by himſelfe or his Councell, in matter of Lawe.

The Speech is in Print.

If it were not without my Sphere to give my opinion of Maſter *St. Johns* ſpeech, it ſhould be this, That he ſpake little or nothing to purpoſe, except in his fift or ſixt Arguments, and in them, I beleeve without his booke, if not, I ſhould conceive it better and ſafer to live under the Lawes of any other Nation then theſe of England, where all Lawe is, at laſt, reſolved into an Arbitrary power, and that by theſe very men, who ſo much elſewhere enveigh againſt it: Of the Preſidents which ſeeme to

pinch

pinch hardeſt) many of them were ſince the Proviſo Repealed (which is an Argument, in my apprehenſion of the pleaders penurie) others nothing to purpoſe, as that of Felony, &c. to the other few, if Lawyers, can give ſatisfaction; I am confident Maſter *St. John* did rather advantage then hurt the Earle by his pleading.

The next news which we expect to heare is, with what Reſolution he went out of this World, for it is concluded amongſt the major part of his Judges, that one muſt die for the people, It were well if the blood of one two or three could ſatisfie. The Bill, for certain, is paſt the higher Houſe, to which 'tis thought the King will be perſwaded to give way: The Scaffold is built upon the Tower Hill, God grant him mercy for his other ſins, and I hope he will eaſily anſwere that of Treaſon; He dies, as we heare, upon the twenty third Article, for the words atteſted by Sir *Henry Vane*, though his Majeſty publiquely proteſted the words were never ſpoken by him.

Upon the cloſe of Maſter *St. Johns* ſpeech the Houſe diſſolved, nor was there a word ſpoken but by Maſter *St. Johns*, only the Lord Lievetenant uſed the laſt part of his Rhetorique, and by a dumbe eloquence, *Manibus ad Sydera tenſis*, all along Maſter *St. Johns* ſpeech, made his Replies with a deepe ſilence.

Upon Friday he Petitioned the Lords to be heard againe, and that becauſe his Lawyers had not fully ſpoken at their laſt meeting, but this was denied him, becauſe the Houſe were to have the laſt ſpeech, nor were they content to ſpeake againe.

Upon this information, or what elſe is not known, the King (it ſeemes fearing the Inconſtancy of the Lords) came to the Houſe on Saterday, at ten of the clock, and having called for the Houſe of Commons ſpake much to this effect.

The Kings ſpeech to the Houſe of Commons.

THAT Hee had ſincerely, without Affection or Partialitie endeavored to informe himſelfe concerning the Livetenants Charge; and had, at length ſeriouſly pondered with himſelfe both concerning the matter of Fact, and the matter of Lawe;

And

and now it ſtood him in hand to cleere their judgements; then to exonerate his own Conſcience: For them, Hee had two things to declare.

Firſt, That there was never ſuch a project, nor had the Lord *Strafford* ever offered ſuch adviſe, for the tranſporting of the Iriſh Army into England; ſo that in nothing the Livetenant had beene more miſunderſtood then in that: Which imputation did, in no ſmall meaſure, reflect on himſelfe (the King) as if he had intended to make War upon his own good Subjects, which thought (he ſaid) was farre enough from his breſt; nor could any man in probability thinke ſo unworthily of him, who had perceived how graciouſly he had dealt with his Subjects elſewhere, that had deſerved a great deale worſe.

Secondly, That the Lievetenant had never advized him to eſtabliſh an Arbitrary Government; nor, if he had, ſhould he have eſcaped condigne puniſhment; nor would any of his good Subjects ever think otherwiſe, unleſſe they conceived him either to bee a foole or a Tyrant; that he either could not, or would not diſcern ſuch wicked-

wickedneſſe Hee was well content (hee ſaid) with that Authority and Power which God had put into his hands; nor ſhould he ever thinke it his Prærogative to intrude upon the Propriety of the Subject.

For himſelfe and his own Conſcience (hee ſaid) he was now to Declare; That in his own judgement there was nothing in the Proceſſe againſt the Lievetenant that deſerved the cenſure of Treaſon: Overſights and Miſ-demeanors there were, in ſuch a meaſure, that he confeſſed the Lord Strafford *was never worthy hereafter to beare any Office in his kingdomes, no not ſo much as of a Conſtable; but was to be anſwerable for all his Errors when they were to be charged upon him, and to this none of them ſhould concurre with greater alacrity then himſelfe; That he hoped none of them would deny to give him the priviledge of the firſt Voice, which was, That he would never, in heart nor hand, concurre with them to puniſh this man as a Traytor, and deſired therefore that they would thinke of ſome other way how the buſineſſe might be compoſed; Nor ſhould it ever be leſſe deere to him (though with the loſſe of his deereſt blood) to protect the Innocent then to puniſh the Guilty.*

'At this the House of Commons startled, and adjorned 'themselves till Monday, divers censures are Past upon the 'Kings speech, even of those that love his houour, some 'thinke hee was drawn to this by a certain fore-knowledge 'of the Lords facility to give way to the Commons, and that 'it was better to expresse themselves then, (if by that meanes 'hee could hinder the sentence) then to countermand the 'Execution thereof when it was passed, and so draw all the 'envie upon himselfe, others are of opinion (which is more 'probable) that this hath beene a plot of the Kings bosome 'enemies, to set him at ods with his subjects, that thereby they 'might fish the more securely in these troubled waters. The 'reason is, because it is very likely the Lord *Strafford* might 'have passed free by the voices of the Lords, but now howsoe-'ver the matter falleth out, all the blame will be imputed to 'the King, for if hee bee condemned, it will bee no thanks to 'the King; if Justified, that will cerrtinly bee layed to the King 'too, as who by his threats and menaces hath forestalled the 'voyces of his Nobilty; It is conceived by wise men (and 'such as wish no evill to my Lord *Strafford*) that it had beene 'farre better both for the King and him: to have first try-'ed the utmost of the Lords; for the King, because it was both 'possible and probable that hee migh have gayned the Decla-'ration of the Lords for him, If not, it was time enough to 'Interpose his own power afterwards; for the Lord *Strafford*, 'because it hath made the House of Commons a great deale the 'more pressing fearing by the Kings Peremptorie answer '(from whom in regarde of the advantage of the times, 'they expected nothing but a *Concedimus omnia*) that there is 'some plot under hand. And these thoughts produced the late 'tumults of the Londoners of which more by and by, And it 'is verily thought that for these two reasons the Lievetenants 'seeming friends, but indeede Reall enemies, have put the King 'upon this way hoping thereby that the Lords should finde 'occasion to pretend necessity of doing that, which perhaps 'in regard of common equity, or the Kings displeasure they 'could nor durst have done, howsoever *Facta est alia*, the 'King is now so farre engaged, that with respect to honour 'and conscience hee connot retire, for if the Præcedure bee

by

'by a legiſlative power, It falls directly upon him, nor can 'hee give his aſſent, If by a Judiciary, then muſt hee either hinder 'the execution, or bee ſayd to have Charged himſelfe with In-'juſtice.

'This hath produced Strange alterations, even the marriage 'of the Prince of Orenge, (done on Sunday laſt, May the ſecond, 'with ordinary Solemnity) is now exceedingly hatefull to the 'Commons, which ſo much before deſired it; ſome ſay the 'Præcipitation of that marriage Imports no good; others that 'the Parliament had condiſcended to that marriage, but did not 'expect that Acceleration; a third ſort, that the party is 'meane enough if not too lowe for the King of Englands 'eldeſt Daughter, All of them; that the Dutch-men have offe-'red mony to the King for a new ſervice of warre, and have 'thereby bought this Honour, This is encreaſed by the land-'ing of a Dutch-man who is to bee Gentleman of the Kings 'Horſes: And ſhortly with us the Hollander will bee no leſſe 'odious then the Spanyard. Oh the wonderfull changes of 'the untoward, unconſtant, and giddy multitude! How 'unhappy a time it is to know what Liberty meanes? and to 'get the Rheins caſt upon their own necks, it ranges madly 'up and downe *nec modum tenens nec terminum*, nor is capa-'ble of ſubſiſtence till it hath loſt it ſelfe, and what it ſo much 'affects, Liberty; So knives are put into the hands of children, 'who diſcerne no danger, but affect them for their ſplendor 'and glittering: ſo Poyſon into the mouths of fooles, which 'is Judged only by the taſte and ſweetneſſe. But it ſeemes the 'Judgment of this Kingdome cannot bee prevented, and be-'cauſe they have ſinned againſt themſelves, by abuſing their 'plenty and fatneſſe, It is the juſt judgement of God, that they 'bee the exeeutioners of his Judgements upon themſelves.

'Before I tell you of Monday and Tueſdayes madneſſe, I 'muſt tell you when and whence this fury hath its firſt motion.

'Upon the Thurſday before, a great many Apprentiſes be-'ſet the Spaniſh Ambaſſadors houſe neere Biſhops-gate, threat-'ning to pull it downe, andkill the man; the Mayor of London 'coms amongſt them, and with a great deale of paynes, per-'ſwaded them to retire home, and afterwards entred into the 'Ambaſſadors Houſe, at his comming in, the Ambaſſador de-

'fired him to pull downe his sword which was carryed before 'him, becaus hee was now where the King of Spaine had 'Jurisdiction; That being done hee told the Lord Mayor that 'in all his life time hee had never seene such a barbarous attempt, 'and desired to know whether England were a civill Nation or 'no, where the Law of Nations were so monstrously violated, 'The Mayor replyed that they were of the base and rascally sort 'of people, and intreated the tumult might not bee imputed 'to the town, the Ambassador answered that hee could hardly 'acknowledge that to bee a town, yea scarce a society of men 'where there was so little Civility and Government. The 'Mayor told him that the people were discontent because Masse 'was said in his house, The Ambassodar replyed, that the 'English Ambassador; had the free exercise of his Religion at 'Madrid, and that hee would rather forgoe his life then any 'of those priviledges due to him by Paction, and the Law of 'Nations. The Mayor answered, they were the more incen-'sed against him, becaus the Londoners popishly affected, 'were permited to come into his house to Masse, which was 'beyond both law and custome, The Ambassador replyed that 'if the Mayor would keep them without doores hee would pro-'mise to send for none of them, but if they came once with-'in his doores, hee could not in Præservation of his Con-'science, or his Masters honour deny them either accesse to his 'Religion, or safeguard to their persons, as far as in him lay: up-'on this a guard was appointed to attend the Ambassadors house, 'whether to keepe out papists, or to preserve them that were 'within, or to let in others is yet to be disputed.

'The storme was quiet from thence till Munday, when the 'people being inflamed agayne, by the Kings speech, came to 'Westminster with the number of five or six Thousand having 'weapons and battoones in their hands, at the entering of e-'very Coach some cryed Justice others execution, a third man 'told his fellows that both were to be conjoyned, and that Ju-'stice & execution was the noble word; upon which (*quasi da-'to signo*) all the rabble cryed aloud with one voice Justice and 'Execution, with a wonderfull strange noise, some went to the 'Coach side and told the Lords that they must & would have ju-'stice done upon the Deputy. In particular above 1000 of them

beset

'beſet the Lord Stewards Coach; and demanded Juſtice and ex-
'ecution of him, Juſtice, ſaid they, wee have gotten allready
'and wee only deſire (and muſt have it) Execution. The
'Lord *Steward* replyed they ſhould have Juſtice and Execution,
'and deſired them only to forbeare and have patience a while;
'no ſayd they wee have had too much patience, wee will not
'ſuffer longer, and therefore my Lord before you goe from us
'you muſt grant us execution, the Lord *Steward* told them hee
'was going to the Houſe to that effect, and that they ſhould
'have all content, But whileſt they were about to deteine him
'longer, ſome of the greateſt power amongſt them ſayd, wee
'will take his word for once and with difficulty enough made
'paſſage for him.

'The Lords Stayed within till twelve of the clock, nor was
'there any courſe taken in the meane time for diſſolving
'of the multitude, the greateſt part went home the back way
'by water, onely when the Lord Holland, Lord Chamber-
'laine, and Briſtowe, came out to their Coach, all of them
'called Juſtice and Execution, but when thy perceived that
'Briſtowe was in the Coach they drew neere to the Coach ſide
'and told him, for you my Lord Briſtowe wee know you are
'an Apoſtate from the cauſe of Chriſt, and our mortall Ene-
'mie, wee doe not therefore crave juſtice from you, but ſhall
'(God willing) crave juſtice upon you and your falſe ſonne the
'Lord *Digby*.

'Let a man caſt his eyes back now, but for ſome few moneths
'paſt, and hee ſhall ſee what truſt may bee repoſed in the fa-
'vour of the giddy multitude, unleſſe a man ſhall reſolve to
'quitt all Religion and Honeſty, and to mould and faſhion
'his Conſcience to the preſent diſtemper and fancy of the peo-
'ple, neither can hee doe ſo ſafely, when ſo much hazard lyes
'in the Inconſtancy of their Conceptions.

'After this they drew up all the names of thoſe either in the
'Houſe of Commons, or the Houſe of Lords. Whome they
'Imagined to favour the Lievetenant: and gave them the
'Title of *Straffordians* with this cloſe. that all thoſe, and all
'other enemies to the Common-wealth ſhould periſh with
'him, and did poſt up the paper at the gate of Weſtminſter,
'as if the old Democratie of Roome, and the Tribunitiall power

'thereof in *Cippo proſcribere*, were now renued and re-'vived.

A Copy of the Paper, poſted up at the Corner of the wall of Sr. *Wil. Brunkards* houſe, in the old Palace-yeard, in Weſtminſter, Monday 3 May 1641.

The names of the Straffordians *poſted.*

1. *Lo. Digby.*
2. *Lo. Compton.*
3. *Lo, Buckhurſt.*
4. *Sr. Rob. Hatton.*
5. *Sr. Tho. Fanſhaw,*
6. *Sr. Edw: Alford.*
7. *Sr. Nich. Slanning.*
8. *Sr. Tho. Danby.*
9. *Sr. Geo. Wentworth.*
10. *Sr. Peter Wentworth.*
11. *Sr. Frederick Cornwallis.*
12. *Sr. Wil. Carnaby.*
13. *Sr. Richard Winn.*
14. *Sr. Garvis Clifton.*
15. Sr. *William Withrington.*
16. *Sr. William Pennyman.*
17. *Sr. Patrik Curwent.*
18. *Sr. Rich. Lee.*
19. *Sr. Hen. Slingsby.*
20. *Sr. Will. Portman.*
21. *Mr. Garvis Hollis.*
22. *Mr. Sydney Godolphin.*
23. *Mr. Cooke.*
24. *Mr. Coventry.*
25. *Mr. Ben. Weſton.*
26. *Mr. Will. Weſton.*
27. *Mr. Selden.*
28. *Mr. Alford.*
29. *Mr. Floyd.*
30. *Mr. Herbert.*
31. *Cap. Digby.*
32. *Serjant Hide.*
33. *Mr. Taylor.*
34. *Mr. Griffith.*
35. *Mr. Scowen.*
36. *Mr. Bridgeman.*
37. *Mr. Fettiplaſs.*
38. *Dr. Turner.*
39. *Cap. Cha. Price.*
40. *Dr. Parry Civilian.*
41. *Mr. Arundell.*
42. *Mr. Newport.*
43. *Mr. Holborne.*
44. *Mr. Noell.*
45. *Mr. Kirton.*
46. *Mr. Pollard.*
47. *Mr. Price.*
48. *Mr. Travannion.*
49. *Mr. Jane.*
50. *Mr. Edgecombe.*
51. *Mr. Chitchley.*
52. *Mr. Mallery.*
53. *Mr. Porter.*
54. *Mr. White. Secret. E. D.*
55. *Mr. Warwick.*

This

This and more ſhall bee done to the Enemies of Juſtice, afore-written.

'Nor ſtayed they heere, one of them in the height of his 'fury cryed out (*Horreſco referens*) if wee get not ſatisfaction 'of the Lievetenant, wee will have it of the King; or as ſome 'ſay worſe; If wee have not the Livetenants life, wee will 'have the Kings. Oh impious Mouth! Oh un-naturali Miſcre-'ant! This man was marked by a Gentleman of the Innes of 'Court, and foure or five, requeſted by him, to beare witneſſe 'of the words. Nor did hee ſtay heere, but the Gentleman '(with fidelity and courage enough) went to the fellow and 'kindly invited him to a pint of wine, the fellow ſuſpecting no-'thing went along with him, but in the meane time hee ſent 'for a Conſtable, in whoſe hearing hee asked him how hee durſt 'ſpake ſuch words as thoſe; hee like a mad man replyed that 'hee would mainteine them, whereupon hee was apprehen-'ded by the Conſtable, and Committed to the Gate-Houſe, 'where hee was three or foure times examined yeſternight; ſome 'report that hee freely confeſſed his words, and withall threat-'ned to ſhew great Authority for them, even within the Gates 'of the Court: this day I heare little of him, but ſome ſay, 'the buſineſſe will bee ſlubbered over with this. That hee ſaid 'only, If wee get not ſatisfaction of the Livetenant, wee will 'go to the King, and it is likely this will bee the Iſſue of the 'buſineſſe, leaſt this zeale ſhould bee quenched in the breeding 'and beginning, whoſe very ſurcharge and exceſſe is lawdable, 'yea neceſſary, in a time of Reformation. Add to this, that 'if this man ſhould ſuffer it might ſettle and calme the forward-'neſſe of the people, before the whole buſineſſe bee ended about 'the Earle of *Strafford*.

'They have further threatned that after Wedneſday they will 'ſhut up their ſhopps, and never reſt from petitioning, till 'not only the Livetenants matter, but alſo all things elſe that 'concerne a Reformation, bee fully perfected.

'The houſe of Commons ſat all that day, (Munday) till *Monday* '8 at night, nor were they Idle all that time, but brought *Proteſtati-* 'forth that Proteſtation, or band of Aſſociation (as they *on.* terme

'terme it) which is now in print, it was then drawn up, and 'without further processe or delay before they came out sub-'scribed by the whole House, except the Lord *Digby*, and an 'Uncle or Friend of his.

'It is thought by some (whose heads are not green) that it 'is very like a Covenant in Scotland, but that must bee left to 'furrher time and wiser heads, if that Cõment that perhaps will 'follow, bee not worse then the text, it may in probability 'happen out to bee canonicall enough, but the too generall 'Phrase in it, lyes very open to have sences (*pro re natâ*) 'thrust upon them, which may, bee very justly suspected to 'have beene intended; where the oath and Law-giver, is the 'party, only some have observed two remarkable things upon 'this.

'First, Some thinke it Strange that Seeing the House of 'Commons have lately fined the Convocation House, upon 'this ground especially that they enjoyned an oath, which is 'a Legislative power (say they) and only due to Parliaments 'How they at this time, (as if all the Legislative power were 'in them) without the advise of the Lords (I say not of the 'Church, though in matters Ecclesiasticall) or approbation 'of the King (which is conceived to bee a mighty encroach-'ment upon his Prærogative) should offer either to præscribe, 'or subscribe such an oath as if it were essentiall to our Refor-'mation, ever to bee done by the people, withour Autho-'rity of the Superiour powers, and yet before it passe in a Stat. 'It must come in by a Bill *usteron proteròn*, but perhaps it is 'hoped that by this Anti-dated subscription, they shall finde 'out the more easy passage for the Bill when it comes to bee 'Propounded.

'Secondly, That the House of Commons were foure houres 'pleading, upon that one expression in the Protestation, [*The 'true reformed Religion expressed in the Doctrine of the Church 'of England*] Some who were more tender toward the Church, 'desiring that the word discipline, might bee adjoyned to the 'word Doctrine, but others mainly opposed that, reasoning 'that no discipline could bee admitted but all to bee esteemed 'as Popish that was not contained in the Doctrine, that is in 'the word of God, which party at the last did prevaile though

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'the other affirmed that there was more expreſſe warrant in the 'word of God for Biſhops, then for ruling Elders, but if ſome 'Hint bee not there intended againſt the Deanes and Chapters 'the liturgies, & ceremonies, yea the very Biſhops of the Church 'of England, let any man judge, and of what dangerous conſe-'quence that may bee, if thoſe who pretend to have authority 'in all Church affaires, may bee permitted to give Sentence is 'not difficult to determine.

'This day the people mett againe but in ſmaller number, 'they have threatned to come to morrow with all rheir maine 'forces, and not to deſiſt till the Lievetenant bee executed, and 'their other petitions obteined, the oath was likewiſe preſen-'ted to the Lords, and ſome ſay all of them (except the eight 'Recuſant Lords, and foure of the Biſhops) have ſigned the 'ſame, but others ſay they have only admitted the Bill which 'is more likely. I think it is *Lucan* tells us the tale, That when 'the 100 handed Gyant *Briareus* (whom the Mithologizers of 'Poems uſe as a Type of the multitude) was firſt brought into 'the world, his Father *Jupiter* deſired *Mercury*, to ſet his 'Scheme, and calculate the Starres of his Nativity; no Father 'ſaid *Mercury*; that is needleſſe, a little time will ſhew his 'diſpoſition, for ſo many hands cannot bee long Idle; A very 'lively Idœa of this buſineſſe now in Agitation, your ſelfe may 'make the application by the events.

Upon Saterday, May the eighth, the Bill againſt the Lord *Strafford* paſt the Lords, there were fourtie five preſent, of which nyneteene voiced for him, and twenty ſix againſt him, the greateſt part of his friends abſented themſelves upon pretence, (whether true or ſuppoſitious) that they feared the multitude, otherwiſe his ſuffrages had more then counterpoiſed the voters for his death. *Saterday May* 8.

In the Bill hee is condemned of Treaſon, and all his Engliſh Lands (the other part of the Coat is left for thoſe in Ireland) forfeited, with an eſpeciall Proviſo, that this Act ſhall in no waies bee forceable againſt others, then if it never had been made; which to his friends of Judgment ſmells Strongly of a particular hatred againſt him, as if the ſame common way of Juſtice ſhould not equally ſtrike againſt all (which it ſhould doe in true Juſtice) but that Crimes did differ in their Subjects.

Two wayes there were to have proceeded againſt him, by a Legiſlative, or by a Judiciary power, both did ſtrike home alike at his life and his eſtate, both alike ready, both ſure by reaſon of the proofs, the Difference only this; this might have beene done without the King, that only by him, becauſe this a Sentence, that a Statute; A man would think the Judiciary way had beene the more ſure, and that the King would rather have connived, and not exerciſed his Prærogative by a Reprivall, then to have Intereſſed himſelfe in the Legiſlative proceedings, by conſenting to the Act againſt him; In whom the world conceived (for by paſt and future ſervices) he had ſo great an Interreſt: But they (it ſeems) notwithſtanding his Majeſties late Atteſtation, of the Gentlemans Innocency in point of Treaſon, were more confident of his gracious Inclination to Juſtifie their own Act; And more deſirous too that hee ſhould demonſtrate his willingneſſe in puniſhing ſuch tranſgreſſors, and therefore the Bill went on by the Statute.

The ſame day another Bill paſſed both the Houſes, that becauſe of the important buſineſſes of the Kingdome, the Parliament ſhould not be broken up by the King without the ſpecall adviſe and conſent of both the Houſes, till all their grievances were redreſſed and their ſafety provided for, which ſpace of time, for any thing I know, may laſt till doomes day; ſome would have had the prefinition of 5, ſome 7, ſome 9, yeares put to it; others Replyed that this would bee both odious & dangerous; odious in that it ſhould ſeem ſo long a Parliament; Dangerous, in the ſame time may happen out poſſible to be longer; ſome think it an honor (I rather a fatality, or to ſweeten the word a Providence) that both their Bill's ſhould paſſe at once, as if [*Generatio unius*, were *Corruptio Alterius.*] And this new Governwent ſhould take life from the death of the Earle of *Strafford.*

In the afternoone the Houſe of Commons deſired acceſſe to the King in the Banqueting Houſe, and having ſtayed there an houre for his coming, in three words they propounded theſe two great Bills, deſiring that hee wonld give his Royall Aſſent to them both, (*Quod ſi non proſint ſingula, Juncta juvant*) Withall humbly ſhewing that the preſent danger of the Kingdome

Kingdome could admit of no delayes, The King told them they ſhould expect an anſwer on Munday morning.

The Court at this time was ſurcharged with a confluence of People, *quaſi Civitas tota ſedibus ſuis mota*, as if the whole Citty was come to petition for Juſtice, a Government indeede worſe then a Democraſie, where the people doe not rule but play the Tyrants, If there were no Monarchy there needs no conſcience to obay it; But where it is, and cannot protect it ſelfe, the good ſubject muſt either forget himſelfe, or his loyalty; A two edged ſword killing either the body or the ſoule, nor in this are men in better eaſe then the winged Fiſhes, that our Southerne Mariners tell us of which, if they ſwim beneath the water are cath'd by the Dolphin, if they fly above for refuge, are ſnatched away by the hungry Ravenous foules, (Lord helpe then the times, or help our patience, and Reſolutions, give us either redreſſe in thee, or confidence in thee.)

The wiſer ſort conceived theſe two Bills too big for them to deſire at once, and that both of them together might procure a flat deniall, but the more couragious knew the readyer way by farre, having often had experince of his Majeſties readineſſe to grant juſt deſires; reſolving that hee that expects to looſe the day, is beaten at his own diffidence, and it is the qualitie of ſome men to ſwallowe Camells upon a ſudder, who (if you give them leiſure, will perchance ſtreine at a Gnatt. Their Reſolutions may ayme at this but deſpaire to remedy that, nature gives the reaſon, *Omne agens ſe exercet, intra ſphæram Activitatis*, dangers if they come but ſtragling upon us wee may collect our ſpirits well enough, and eaſily reſiſt them, but if they come by whole troopes Amazement and feare admitts of no conſultation for the future, but only intends to decline the preſent and preſſing hazard, whereon the ancient Gaules made their firſt on-ſetts, with valour beyond the courage of men; and with fearefull cryings and ſhouts belying their own Animoſity, to ſtupify and quell that of the enemy.

Sunday, All the day the King was reſolute never to give way to the Bill againſt the Lord *Strafford* telling them withall that it ſeemd ſtrange to him, that the man could not dy, unleſſe *Sunday.*

hee; and hee only by giving Sentence the Kings Legiſlative way ſhould condemne him, the Lord *Pembrok* brought the King a piece of Scripture, 2. *Sam.* 19. from the 5. to the 9. verſe, the words indeede became a Joab rather then himſelfe till hee had ſcattered the force of the Kings (not eldeſt ſonne yet eldeſt) daughter, the Kingdome of Scotland; heere is ſome Analogy with *Abſolon* and in nothing elſe, for *David* was ſorry for ſhedding the nocent, they not ſorry for ſhedding the Innocent blood, though the Iſſue bee not the ſame.

Foure Biſhops.

Foure Biſhops were ſent for by the King, the Primate of Ireland, the Biſhop of Durham, Lincolne and Carliſle, ſome ſay (and I doe rather believe it) that the King was deſirous the Bill ſhould bee voiced againe, and argued, the Biſhops had their ſuffrages in the Admiſſion though not in the approbation of the Bill, others thinke in regard the Primate was there, (who had no Intereſt in this Kingdome) it was to reſolve the Kings Conſcience; for my part I ſee not how they ſhould doe this, ſeeing the buſineſſe was grounded upon a caſe in Law, which none of them (unleſſe the Biſhop of Lincolne had learned when hee was Lord Keeper) could poſſibly diſcuſſe; for if the King was tender in it, how could they perſwade him to give way, if not, what needed their Reſolutions?

But it may bee that they perſwaded him, that in Conſcience hee might preferre the opinion of the Judges before his own, And that if (though with ſome reluctation) they thonght upon their oathes, the Proceedings to bee lawfull, hee might give way to them, This is not unlikely becauſe the judges were ſent for the ſame time, and it ſeems for the ſame ſervice, And if it bee ſo; I admire, (and adore too) the wonderfull providence of God, who in his præparatory Act, to his unlawfull Judgment (which undoubtedly will follow) ſuffers not only the King and the Countrey, but the Church too, (as if her Cup were not yet full) to be involved.

But could this bee to the matter of fact, the King I am ſure knew him to bee free from any the leaſt intention of ſubverting the fundamentall Lawes of the Kingdome, And could the Biſhops ſatisfie this ſcruple too, it may bee they are perſwaded, that the Proofs might bee taken Implicitly from the Houſe of

Commons,

Commons, as the Law from the Judges; It is reported indeed that they beſought the King with many teares to give way, and that to prevent the ruine of the Kingdome, which theſe Stateſmen (who will bee ever content with the longeſt life for themſelves, till by peece meale they bee thruſt from all) did ſee would neceſſarily follow: well, I dare propheſie to them they ſhall not want their Reward, neither from King nor people, for the next tumult of people ſhall bee againſt their Liturgies, Surplices, and Church ornaments. And ſeeing they have now over-perſwaded the King in this, if they can procure him then to protect themſelves, from thoſe imminent dangers which hang over their heads, they ſhall doe a miracle. *ſed quos perdere vult Jupiter, dementat.* ſome body elſe will perſwade the King that to ſatisfie the Common People, aud to prevent the Ruine of the Kingdome, Biſhopricks, Deanes, Prebends, and all Cathedrals muſt down, *Sedomen avertat Deus optimus.*

Sunday, All day nothing ſonnded in the King eares, but feares, terrors, and threatnings of worſe and worſe, the noiſe of Drums, and Trumpets were Imagined to bee heard of rebelling people from every Corner of the Kingdome, yea Apprentices, Coblers, and fruiterers, preſented thmſelves as all ready running into the Kings Bed-chamber.

After they had wreſtled him breathleſſe, and (as they doe with great fiſhes) given him ſcope of Lyne, wherein to ſpend his ſtrength, at laſt *victus dedit manus*, being overcome with ſuch unceſſant Importunities hee yeelded up the Bucklers, And about nine of the clock at night (oh deplorable neceſſity of the times or rather oh the frailtie of humane nature! that can neither foreſee nor ſufteine this neceſſity) the King promiſed to ſigne both the Bills the next morning, which was accordingly done, and a Commiſſion drawn up for his (I do not care in what relation you take the word) Execution. *Ingentes Curæ ſtupent, loquuntur leves.*

Though I had reſolved with the Painter (who could not expreſſe his griefe ſufficiently in weeping for his daughter) heere to have drawn the Curteine, yet it will not bee, ſomething muſt overflow.

Conſider the Gentleman as a man, his Judgement, Memory, Eloquence, reall perfections in this age of appearances, conſider

him as a Subject, his Loyalty, his Courage, his Integrity to King and Countrey, in these disloyall and faint-hearted times; consider him as a Christian, his love to the Church, his respect to Church-men, in this prophane and over-weening Generation; let Worth, Honesty, and Religion weepe his funerals, who suffers for all, and yet by all, yea as an Enemy to all these; talke not to me hereafter of Justice, Equity or Conscience, they are but names, and those scornfull and empty names too; It is Power, Faction and Interest that are the managers of humane affaires, and swaies the times; I defie all History to furnish us with the like Paralel, of a man accused by his Countrey, by reason of his noble and eager desires to mainteine them in plenty and reputation; convicted by the Church for his actuall performance & serious intention to restore both the Dignities & Revennue sthereof; his Prince even forc't to condemn him, after his Integrity to perswade due obedience, and to protect royall Authority; Happy, yea thrice happy hee, whose Innocence was wedded to his Perfection, and both of them (for so it shall ever be in my Kalender) crowned with Martyrdome: Forgive I intreate you these broken Expressions of a passionate Soule, my obliegements to the Gentleman were little, my expectation from him nothing, only an ingenious, though perhaps, a simple thought of the present Crimes, and future punishment of this Kingdome (unlesse God be more mercifull) whether from the privation of his Life, or merit of his Death hath extorted thus much from me; Remember the story of Innocent *Socrates*.

You desire me to be present aud see the Catastrophæ of the businesse; I should pluck out mine eyes if I thought they had so much cruelty to behold such a spectacle; you may thinke it courage, but I inhumanity: My owne sinnes doe too much interest me in his sufferings, though I be not accessory by my sight. The zealous Pilgrims of the Turkish Religion, after they had seen the blessed spectacle of *Mahomets-Tombe*, at Mecca, doe presently make themselves blinde by continuall poaring upon hot burning Bricks, so destroying the optick-nerves, as thinking themselves unworthy ever afterwards to looke upon any worldly object; I leave your selfe Sir to make the application, I dare ingeniously say it, that all my sufferings to this time (and I have not beene without a round share of them) did never touch me so neerely, as

the

the ſufferings of Juſtice, Religion and Loyalty, by this one Fact: Not for any evill conſequence to me (God knows) I am beneath the reach of Fortune, and can eaſily change my Clymate, but for that Clowde which hangeth over the Publique, and will not, I feare be diſſolved till the meaſures of Deſervings bee made up Brim full.

What turbulency, what confuſion is within me, you may eaſily gueſſe by theſe ſymptomes that are without, thoſe raw and indigeſted expreſſions, it is my daily labour to obtein the Maſtery of my ſelfe and my affections, but upon ſuch extraordinarie times and occaſions, they grow too ſtrong for me, I muſt give way and retyre before I get new ſtrength againe: Hence it is, that though at the Lord Straffords laſt departure, out of this World, I might have beene aſſured of his Mantle, that is, the doubling of his Perfections upon me, and of a capacity to admit of the leaſt of them, yet I could not have attended his Execution; my heart was too weake, and my eyes too blinde to behold ſuch a woefull ſpectacle, but be you aſſured he will not dy like one of the vulgar, nor like one of thoſe wanton Courſers who can ruſh fiercely into the battell, yet withall ſtart at his owne ſhadow: He hath done and can doe greater things then die, and that too without any in-decorum. As he hath lived for the reall Demonſtration of his ſervice and fidelity, ſo he can die for the pretended ſafety of his Soveraigne, and that in a ſtrange way too, as if the head could not be ſafe, but by cutting off the right hand.

Sir, your deſires have oblieged me to untie my wounds, yet ſcarce bound up, and by reflection upon that ſad object, to fall a bleeding againe; nor can I grant your ſuite to make that great Lord ſpeake in his owne dialect. *Pythagoras* tranſmutation could not have found out a fit lodging for that noble Soule, nor doth nature give us wonders every day, nor ſtreyne herſelfe ambitiouſly to ſhew forth the utmoſt reach of her perfections or maſter peece, and to preſent us with ſuch a rare conjunction of ſuch a courage attended with loyalty to danger: wiſedome accompanied with eloquence to admiration: What could not that man thinke? What thinke and not ſpeake? What ſpeake and not doe? But I will not be too Rhetoricall, that Speech or rather blemiſh Printed and pretended to be ſpoken by him in the Tower, is as like him as he was to a Pedant his Soule now laughs

(if

(if that naturall ſence could reach ſo high) at that poore injury, it doth exceedingly well become the charity of the times, not only to perturbe his reſt, but alſo by belying his Expreſſions, to make his owne hands the ſcatterers of his owne duſt, and his own Tongue, the Trumpet of his owne infamy: That Speech is a foiſt and a ly, His other Speech on the Scaffold, and with it, his Letter to the King, you ſhall finde at the end of this Letter, in the beſt way we could get it, ſomething of his greatneſſe appears in his phraſe, and as much life too as could, by ſnatches, be gathered from his mouth, yet it comes farre ſhort of that grace which it had when it was delivered by himſelfe, what by the eſcapes of the Obſervers, What by the Faint-heartedneſſe of the Preſſe, which durſt not ſpeake freely, for feare of Arbitrary Treaſon.

Two obſervable Expreſſions I had from an underſtanding Auditor,

Firſt, Sir *George Wentworth*, weeping extremely upon the Scaffold, was thus checked by him: Brother, what doe you ſee in me that deſerves theſe teares? doth my feare betray my guiltineſſe? or my too much boldneſſe any Atheiſme? Thinke now (and this is the third time) that you doe accompany me to my Marriage Bed: Nor did I ever throwe off my cloathes with ſuch freedom and content, as in this my preparation to my Grave, That Stock [pointing to the block appointed for his Execution] muſt be my pillow; here muſt I reſt, and reſt from all my labors; no thoughts of envie, no dreames of Treaſon, Jealouſies of foes, cares for the King, the State or my ſelfe ſhall interrupt this nap; therefore Brother, with me, pitty mine enemies, who beſide their intention have made me bleſſed; rejoyce in my Innocency, rejoyce in my Happineſſe.

Secondly, Kneeling downe upon the Scaffold hee made this Proteſtation, I hope Gentlemen you doe think that neither feare of loſſe, nor love to Reputation will cauſe me to bely God and my owne Conſcience, for now I am in the dore going out, and my next ſtep muſt be from time to eternity, eyther of Peace or Payne; to cleere my ſelfe to you all, I doe ſolemnly proteſt before God, I am not guilty (ſo farre as I can underſtand) of that great Crime laid to my Charge, nor have ever had the leaſt inclination

nation or intention to damnify or præjudice the King, the State the Lawes or Religion of this Kingdome, but with my beſt endeavors to ſerve all, and to ſupport all [*So might Goa be merciſull to his Soule.*] His words did juſtifie him more there then in Weſtminſter Hall, and made ſuch a deepe impreſſion in the hearers, that a great many of thoſe who cryed out for Juſtice againſt him (after their fury was ſpent, and their madneſſe ſtrewed with cold blood) wiſhed their tongues had beene cut out of their heads before they had opened their mouthes againſt him; others moſt ignobly imputed this to his effronted boldneſſe, and are ſo perſwaded of their own infallibility, that they mervailed he beleeved not his Actions to be Errors vpon their Word, and did not confeſſe their opinions of him to be truth it ſelfe; A kinde of People they are beyond the cure of Bedlam, and nothing but the whipping poſt, or letting blood can doe them good, or bring them remedy, *Vexatio tantum dabit Intellectum*, 'tis nothing but ſence will teach them judgement, and affliction Charity, and both theſe I feare are haſtning on apace.

His Countenance was in a middle poſture, betwixt dejection and boldneſſe, a man may call it, even courage and Innocence it ſelfe, without any feare of Critticks, nor could his very Enemies through their multiplying glaſſes, perceive the leaſt affectation of diſguiſe in him; never man looked death, more ſtately, in the face; never man trembled more at his ſinnes, ſuch were his contritions for his overſights, and ſuch his immovable confidence of Gods Pardon and his Mercy.

His Prayers raviſhed all the ſtanders by, that they could not judge whether to preferre his zeale or his pœnitency; yea, the Primate of Ireland (who is no complementer) reported afterwards to the King, that he had then firſt learned to make ſupplications aright to Godward, and withall told his Majeſty that he had ſeene many die, but never ſuch a white Soule (this was his owne expreſſion) returne to 'its maker; At which words the King was pleaſed to turne himſelfe about and offer a teare to his Memory. *--Tantorum mercede laborum.--*

And becauſe miſ-report, about him and my Lords-Grace of Canterbury, hath wandred as farre as Cambridge, give me leave to adde the ſtory of that miſtake. It was reported here by the divulgers of ſuch ſlanders, that a little before his death, he had charged

ged all his misfortunes, overſights and miſdemeanors upon the Arch-Biſhop of Canterbury, as the prime Author, and had bitterly curſt the day of their firſt acquaintance; A pretty invention it was, to charge the Axe againe, and to furniſh the People with lungs and voices to cry for another Sacrifice; yea, to ſtaine this Martirs long white Robe, with the Innocent blood of another *Heroes. Oh yee ſonns of men! How long will yee love vanity and ſeeke after leaſing?*

For this cauſe I was the more Inquiſitive to learne out the truth of this particular, and had it thus related to mee by a worthy divine Doctor *Wimberly*, who dyning with my Lord of Canterbury the day after the Earle of *Straffords* Execution, had it from his own mouth. And my Lords grace it ſeems having heard of the miſtake, did at every period take the Lievetenant of the Tower, then preſent, his Atteſtation and Approbation.

That the Lord *Strafford* the night before the Execution had ſent for the Lievetenant of the Tower and asked him whether it were poſſible hee might ſpeake with the Arch-Biſhop; the Lievetenant told him hee might not doe it without order from the Parliament. Maſter Lievetenant, ſaid hee, you ſhall heere what paſſeth betwixt us; it is not a time now either for him to plot Hæriſy, or me to plot Treaſon, The Lievetenant anſwered that hee was limited, and therefore deſired his Lordſhip would Petition the Parliament for that favour, no (ſaid hee) I have gotten my diſpatch from them, and will trouble them no more; I am now petitioning an higher Court, where neither partiality can bee expected, nor error feared, But my Lord (ſaid hee) turning to the Primate of Ireland, then preſent, what I ſhould have ſpoken to my Lords grace of Canterbury, you ſhall deſire the Arch-Biſhop to lend me his prayers this night, and to give me his bleſſing when I doe go abroad to morrow, and to bee in his window that by my laſt farewell I may give him thanks for this, and all other his former favours.

The Primate having delivered the meſſage without delay, the Arch-Biſhop replyed that in conſcience hee was bound to the firſt, and in duty and obligation to the ſecond, but he feared his weakneſſe and paſſion would not lend him eyes to behold his laſt departure.

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The next morning at his coming forth hee drew neere to the Arch-Biſhops lodgings? and ſayd to the Lievetenant, though I doe not ſee the Arch-Biſhop, yet give me leave I pray you to do my laſt obſervance toward his roomes; in the meane time the Arch-Biſhop, advertized of his approach, came out to the window; then the Earle bowing himſelfe to the ground, my Lord ſaid hee, your prayers and your bleſſing, the Arch-Biſhop lift up his hands and beſtowed both, but overcome with griefe fell to the ground *in Animi Diliquio.* The Earle proceeding a little farther, bowed the ſecond time ſaying, Farewell my Lord; God protect your Innocency.

To this relation the Lord of Canterbury added, that it might perhaps ſeeme an effeminacy and ſoftneſſe unbecoming him, to bee ſo caſt down, but hee hoped by Gods Aſſiſtance and his own Innocency, that when hee came to his own Execution (which hee daily longed for) that the world ſhould perceive hee had beene more ſencible of the Lord *Straffords* loſſe, then of his own; and good reaſon it ſhould bee ſo (ſaid hee) for the Gentleman was more ſerviceable to the Church (Hee would not mention the State) then either himſelfe or any of all the Church-men had ever beene.

And that there may bee a ſlaughter-Goat for the ſinnes of the people in Scotland, to wait upon this report, they have fained another of the ſame meale, that the Arch-Biſhop of Canterbury caſts back all his miſdemeanors upon the Biſhop of Roſs, as if either the Lord *Strafford* had beene tutored by the Ach-Biſhop, or hee by the Biſhop of Roſs, in the King and Countryes ſervice; I did think that both of them had paſt their pupilage and could not have beene bended to execute the directions of any man living, but only their own Maſters, but this is a faire advertiſement to the Biſhop of Roſs, to make himſelfe the ſcape-Goat. *Heu fugenate Deo.*

Give me leave to adjoyne one thing more, when hee was marching to the Scaffold more like the Generall in the head of an Army, to breath victory, then like a condemned man to undergoe the Sentence of Death, the Lievetenant of the Tower deſired him to take Coach, for feare the people ſhould ruſh in upon him and teare him in pieces, No (ſaid hee) Maſter Lievetenant I dare looke death in the face, and I hope the

People too, have you a care that I doe not escape, and I care not how I die, whether by the hand of the Executioner, or the madnesse and fury of the People. If that may give them better content, it is all one to me.

It is but diminutive to call it a wonder, it is something above, that his thoughts and expressions should be so present with him, no more putrifaction in them, then if he had beene about some ordinary businesse: His Alacrity, his Devotion did amaze; yea, teare in peeces the hearts of all those about him, who had the least Grace or Humanity in them.

Too much Perfection indeed to be lost at one blow, but this Age was not worthy of it, nor shall any after Age, I thinke, ever enjoy the like, that only which is possible is the object of the will, and therefore I will not endeavor to find out words for expressing this wonder of the times; only I leave his virtues to speake the rest, to the *Admiration of Ours, and Compassion of succeeding Ages.*

A Letter to a Friend.

Beleive me Sir. This blessed departure of his hath put me in love with Scaffolds more then death bedds, Let it bee my Paradox (if not Propheticall to me) that it is the best kind of Dissolution, provided there bee Innocence to uphold the Conscience, And (with good men at least) to mainteine the Reputation afterwards: Heere you are attended with the Pregnancy of Judgment and Memory, not weakned nor clouded with tedious and giddy sicknesses: Heere you have a time præfixed and must of necessity concentricate your selfe and your best resolution; elsewhere nature is unwilling to find a Suspension, abhorring its own Destruction, (*Imo quam multos in medio scelere mors occupavit & medium secuit crimen*) Here a moment ends the Payne, which parhaps not 7 Apprentiships elswhere; and here, if any where, we find pitty, yea deservings both with God, and good men; but he that sent vs hither must prescribe us the way of our returne.

Upon that very day of the Execution in the afternoone (*Abyssus abyssum invocat*, Blood calls for blood) there happned a conflict betwixt the Scotts and English Army, no certaine

certaine number yet reported, nor what occaſion, (ſome ſay ſix ſcore, ſome three ſcore Scotts, ſome twenty, ſome thirty Engliſh) only the matter it ſelfe was repreſented by the Generall, (the Lord Holland) upon a letter from Sir *John Conniers* to the Parliament upon Friday with a mighty regret, that hee had beene appointed for peace, but that unhappy rub had fallen out much contrary to his deſire.

The King ſent a letter the day before the Execution, by the Prince to the uper-houſe deſiring the Rigour of that Sentence might bee remitted, but it was ſent back unbroken up, for feare either to refuſe the King or diſcontent the people, God forbid his Majeſtie ſhould give ſo ſlender an eare to their Petitions.

The Lord *Straffords* Children are reſtored to all his eſtate, and if they petition for it ſhall bee to his Honoures too, the Houſe of Commons have beene as forward in this as any elſe, whether to make ſome recompence to them, or to give proofe to the Nobilytie (leaſt they ſhauld bee ſcared by the example) that not ſo much the meanes as the man was aymed at. But it will be a queſtion whether they can reſtore that head too, when the Kingdome ſhall neede its ſervice. It is to bee feared that his great Abilites will ſhortly bee more underſtood by our want of them then our fruition, ſo darke is mans underſtanding in Preſerving that which is virtuous and uſefull amongſt us.
Virtutem Incolumem odimus.

The Earle of Straffords *Letter to his* Majeſty.

IT hath beene my greateſt griefe, in all my troubles, to be taken as a perſon that ſhould endeavor to preſent and ſet things amiſſe betweene your Majeſty and your People, and to have given Councell tending to the diſquiet of your Majeſty and your three Kingdomes.

Moſt true it is, that ſuch an attempt (my private condition conſidered) had beene a great madneſſe, ſeeing through your gracious favour, I was ſo provided as I could not expect in any kinde to mend my Fortune, or to pleaſe my minde more then by reſting where your bounteous hand had placed me: nay, the buſineſſe is moſt mightily miſtaken, for unto your

Majeſty it is well knowne, that my poore and humble advices concluded ſtill in this, That your Majeſty ſhould never be happy till there were a right-underſtanding procured betwixt you and them : no other meanes to effect and ſettle this happineſſe, but by the Councell and Aſſent of the Parliament : and no way to prevent the growing evills of this State, but by puting your ſelfe entirely upon the Loyalty and good-Affection of your Subjects.

Yet (ſuch is my misfortune) the Truth finds little credit, the Contrary (it ſeemes) generally beleeved, and my ſelfe reputed the Cauſe of this great ſeparation betwixt you and your People : Under a heavier Cenſure then this, I am perſwaded no Gentleman can ſuffer, and now I underſtand that the mindes of men are the more incenſed againſt me, notwithſtanding your Majeſty hath declared, That in your Princely opinion, I am not guilty of Treaſon, nor are you ſatisfied in Conſcience to paſſe the Bill : This brings me into a great Streight. Here is before me the ruine of my Children and Family, hitherto untouc't in all the branches of it with any foule Crime. Here are before me the many evills which may befall your ſacred Perſon and the whole Kingdome, ſhould your ſelfe and the Parliament be leſſe ſatisfied the one with the other than is neceſſary for the King and People. Here are before me the things moſt valued, moſt feared, by mortall men [Life and Death :] To ſay Sir, there hath not beene a conflict within me, about theſe things, were to make my ſelfe leſſe man then (God knowes) my infirmities will give me leave, and to call a deſtruction upon my ſelfe and my yong children, where the intentions (at leaſt) of my heart, have beene innocent of this great Offence (may be beleeved) would finde no eaſie conſent from fleſh and blood,

But, out of much ſadneſſe, I am come to a Reſolution of that which I take to be beſt becomming me, that is, To looke upon that which is principally to be conſidered in it ſelfe, and that is doubtleſſe the proſperity of your ſacred Perſon and the Common-wealth, infinitely to be preferred before any mans private intereſt : And therefore, in few words, as I have put my ſelfe wholly upon the Honour and Juſtice of my Peers, ſo cleerely as I wiſh your Majeſty had beene pleaſed to have ſpa-

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red that Declaration of yours on Satterday laſt, and to have left me entirely to their Lordſhips; So now (to ſet your Majeſties Conſcience at Liberty) I doe moſt humbly beſeech You, for the preventing of ſuch miſchiefes as may happen by your Refuſall, to paſſe the Bill; by this meanes to remove (praiſed be God I cannot ſay this accurſed, but I confeſſe) this unfortunate thing forth of the way, towards that bleſſed Agreement which God, I truſt, ſhall for ever eſtabliſh betwixt you and your Subjects: Sir, My conſent herein ſhall acquit you more to God, then all the world can doe beſide; To a willing man there is no injury done, And as by Gods-grace I forgive all the world, with a calmneſſe and meekeneſſe of infinite contentment to my diſlodging Soule, ſo Sir, I can give the Life of this world, with all cheerefulneſſe Immaginable, in the juſt acknowledgment of your exceeding favours, and only beg that, in your goodneſſe, you would vouchſafe to caſt your gracious Regard upon my poore Sonne and his three ſiſters, leſſe or more, and no otherwiſe, then their unfortunate Father ſhall appeate more or leſſe guilty of this Death. *God preſerve your Majeſty.*

Tower *May* 9.
1641.

Your Majeſties moſt Humble and Faithfull Subject & Servant STRAFFORD.

The Petition of THOMAS Earle of Strafford, *to the right-Honorable the Lords Spirituall and Temporall, in the Parliament at Weſtminſter,* 1641.

Sheweth,

THAT ſeeing it is the good will and pleaſure of God that your Petitioner is now ſhortly to pay that duty which we all owe to our fraile Nature; He ſhall in all Chriſtian patience and Charity conforme and ſubmit to that Juſtice, in a comfortable aſſurance of the great hope laid up for us, in the Mercy

Mercy and Merits of our Saviour, *Bleſſed for ever.*

Only he humbly craves to returne your Lordſhips moſt humble thanks for your noble Compaſſion towards thoſe Innocent Children who now with his laſt bleſſing he commits to the protection of Almighty God, beſeeching your Lordſhips to finiſh your pious Intentions towards them, and deſiring that the reward thereof, may be given you by him, *who is able to give above all that we are able either to aske or think*, wherein I truſt the honorable Houſe of Commons will afford rheir Chriſtian aſſiſtance.

And ſo beſeeching your Lordſhips charitably to forgive all his omiſſions & infirmities, he doth heartily and truly recommend your Lordſhips to the Mercies of our heavenly Father, that for his goodneſſe he may protect you in every good work, Amen

There was a fooliſh, ridiculous and ſcandalous Speech printed, which was pretended to have been ſpoken by the Earle of *Strafford*, to certaine Lords, before his comming out of the Tower, which is proteſted againſt, and avowed to be falſe by the Lord Primate of Ireland, E of Cleveland, E of Newport, Lo. *Rich*, Sir *William Balfoure*, Sir *William Wentworth*, Sir *George Wentworth*, Dr. *Carre*, Dr *Price*. ——*De Mortuis nil niſi verum.*

The Paper conteining the Heads of the Lord Straffords *laſt Speech, written with his own hand, as it was left upon the Scaffold, falling out of his Boſom.*

1. Come to pay the laſt Debt we owe to ſinne. 2. Riſe to Righteouſneſſe. 3. Dye willingly. 4. Forgive all. 5. Submit to Juſtice, but, in my intentions, Innocent from ſubverting, &c. 6. Wiſhing nothing but good Proſperity to King and People. 7. Acquit the King conſtreined. 8. Beſeech to Repent. 9. Strange way to write the beginning of Reformation and ſettlement of a Kingdome in blood. 10. Beſeech that demand may reſt there. 11. Call not blood on themſelves. 12. Dy in the Faith of the Church. 13. Pray for it, and deſire their Prayers with me.

A true-copy of his Speech delivered on the Scaffold.

My L. Primate of Ireland.

IT is my very great comfort that I have your Lordſhip by me this day, in regard I have beene known to you theſe many yeares, and I doe thank God and your Lordſhip for it that you are heere, I ſhould bee very glad to obteine ſo much

much ſilence as to bee heard a few words, but I doubt I ſhall not, the noiſe is ſo great. My Lords, I am come hither by the good will and pleaſure of Almighty God, to pay that laſt debt I owe to ſinne; which is death, and by the bleſſing of that God, to riſe again through the mirrits of *Jeſus Chriſt* to righteouſneſſe and life æternall. [Heere hee was a little interrupted.]

My Lords, I am come hither to ſubmit to that Judgement which hath paſſed againſt me, I do it with a very quiet and contented minde, I thank God, I doe freely forgive all the world, a forgiveneſſe, that is not ſpoken from the teeth outwards (as they ſay) but from the very heart; I ſpeake it in the preſence of Almighty God, before whome I ſtand, that there is not a diſpleaſing thought ariſing in me towards any man living. I thank God I can ſay it, and truly too, my conſcience bearing me witneſſe, that in all my imployment ſince I had the Honour to ſerve his Majeſtie, I never had any thing in the purpoſe of my heart but what tended to the Joynt and Individuall proſperity of King, and people; although it hath beene my ill fortune to bee miſconſtrued.

I am not the firſt that hath ſuffered in this kinde, it is the common portion of us all, while wee are in this life to err, Righteous Judgment wee muſt wait for in another place, for heere we are very ſubject to bee miſ-judged one of another; there is one thing that I deſire to free my ſelfe of, and I am very confident (ſpeaking it now with ſo much cheerfullneſſe) that I ſhall obteine your Chriſtian charity in the beliefe of it. I was ſo farre from being againſt Parliaments, That I did allwayes think the Parliaments of England, were the moſt happy conſtitutions that any Kingdome or Nation lived under, and the beſt means under God to make the King & people happy.

For my Death I heere acquit all the world, and beſeech the God of Heaven heartily to forgive them that contrived it, though in the Intentions and purpoſes of my heart I am not guilty of what I dy for; And my Lord Primate it is a great comfort for me, that his Majeſty conceives me not merriting ſo ſevere and heavy a puniſhment as is the utmoſt execution of this Sentence. I do infinitly rejoyce in this mercy of his, and I beſeech God returne it into his own boſome, that hee may find mercy when hee ſtands moſt in neede of it.

I wiſh this Kingdome all the Proſperity and happineſſe in the world, I did it living, and now dying it is my wiſh, I doe moſt humbly recommend this to every one who heares mee, and deſire they would lay their hands upon their hearts, and conſider ſeriouſly whether the beginning of the happineſſe and reformation of a Kingdome ſhould bee written in Letters of blood; conſider this when you are at your homes, and let me be never ſo unhappy, as that the laſt drop of my blood ſhould riſe up in Judgement againſt any one of you, But I feare you are in a wrong way.

My Lords I have but one word more, and with that I ſhall end. I profeſſe that I dy a true and obedient Sonne to the Church of England, wherein I was borne and in which I was bred. Peace and proſperity bee ever to it.

It hath beene objected (if it were an objection worth the anſwering) that I have beene inclined to Popery, but I ſay truly from my heart, that from the time that I was one and twenty yeares of age to this preſent, going now upon fourty nine, I never had in my heart to doubt of this Religion of the Church of England; Nor ever had any man the boldneſſe to ſuggeſt any ſuch thing to mee, to the beſt of my remembrance, and ſo being reconciled, by the merrits of *Jeſus Chriſt* my *Saviour*, into whoſe boſome I hope I ſhall ſhortly bee gathered, to thoſe eternall happineſſes which ſhall never have end; I deſire heartily the forgiveneſſe, of every man, for any raſh or unadviſed words, or any thing done amiſſe, and ſo my Lords and Gentlemen Farewell; Farewell all the things of this world.

I deſire that you would bee ſilent and joyne with me in prayer, and I truſt in God wee ſhall all meet and live eternally in heaven, there to receive the Accompliſhment of all happineſſe, where every teare ſhall bee wiped away from our eyes, and every ſad thought from our hearts; and ſo God bleſſe this Kingdome, and Jeſus have mercy on my Soule.

Then turning himſelfe about hee Saluted all the noble men; and tooke a ſolemne leave of all conſiderable perſons upon the Scaffold, giving them his hand.

After that hee ſaid, Gentlemen, I would ſay my prayers, and entreate you all to pray with me, and for me; then his Chaplaine layd the booke of Common-prayer upon the Chayre

Chayre before him, as hee kneeled downe, on which hee prayed almoſt a quarter of an houre, and then as long or longer without the Booke, and concluded with the Lords prayer.

Standing up hee eſpies his Brother, Sir *George Wentworth*, and calls him to him ſaying, Brother we muſt part, remember me to my ſiſter, and to my wife, and carry my bleſſing to my Sonne, and charge him that hee feare God, and continue an obedient Sonne to the Church of England, and warne him that hee beares no private grudge or revenge toward any man concerning me; And bid him beware that hee meddle not with Church-livings, for that will prove a moth and canker to him in his eſtate, and wiſh him to content himſelfe to bee a Servant to his Country, not ayming at higher Preferments.

Aliter] To his Sonne Maſter *Wentworth* hee commends himſelfe, and gives him charge to ſerve his God, to ſubmit to his King with all faith and Allegiance in things temporall, to the Church in things Spirituall, chargeth him againe and againe, as hee will anſwer it to him in heaven, never to meddle with the Patrimony of the Church, for if he did, it would be a Canker to eate up the reſt of his Eſtate.

Carry my bleſſing alſo to my daughter *Anne*, and *Arabella*, charge them to ſerve and feare God, and hee will bleſſe them; not forgetting my little Infant, who yet knowes neither good nor evill and cannot ſpeake for it ſelfe, God ſpeake for it, and bleſſe it; now ſaid hee I have nigh done, one Stroke will make my wife husbandleſſe, my deare children fatherleſſe, and my poore Servants Maſterleſſe, and will ſeperate me from my deare brother, and all my friends. But let God bee to you and them all in all.

After this going to take off his doublet and to make himſelf unready, hee ſaid, I thank God I am not affraid of Death, nor daunted with any diſcouragement riſing from any feares, but doe as chearfully put off my doublet at this time, as ever I did when I went to bed; then hee put off his Doublet, wound up his haire with his hands, and put on a white Cap.

Then hee called, where is the man that is to doe this laſt office? (meaning the executioner) call him to me; when hee came and asked him forgiveneſſe, hee told him he forgave him and all the world: then kneeling down by the block; hee went to prayer againe himſelfe, The Primate of Ireland kneeling

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on the one ſide, and the Miniſter on the other: To the which Miniſter, after prayer, hee turned himſelfe, having done prayer, and ſpake ſome few words ſoftly, having his hands lifted up, and cloſed with the Miniſters hands.

Then bowing himſelfe to lay his head upon the block, he told the Executioner that hee would firſt lay down his head to try the fitneſſe of the block, and take it up againe before he would lay it down for good and all: And ſo he did; and before he layed it down again, he told the Executioner that he would give him warning when to ſtrike by ſtretching forth his hands; And preſently laying down his neck upon the block, and ſtretching forth his hands, the Executioner ſtrooke off his head at one blow, and taking it up in his hand ſhewed it to all the people: And ſayd. *God ſave the King.*

His body was afterwards embalmed, and appointed to be carried into York-ſhire, there to be buried amongſt his Anceſtors.

He left theſe three Inſtructions for his Sonne in Writing.

Firſt, That hee ſhould continue ſtill to be brought up under thoſe Governors to whom hee had committed him; As being the beſt he could pick out of all thoſe within his knowledge, and that he ſhould not change them, unleſſe they were weary of him; that he ſhould rather want himſelfe, then they ſhould want any thing they conld deſire.

Secondly, He charged him as he would anſwer it at the laſt day, not to put himſelfe upon any publique employments till he was thitty yeares of age at leaſt: And then if his Prince ſhould call him to Publique Service, he ſhould carefully undertake it, to teſtify his obedience, and withall to be faithfull and ſincere to his Maſter, though he ſhould come to the ſame end that himſelfe did.

Thirdly, That he ſhould never lay any hand upon any thing that belonged to the Church; He foreſaw that ruine was like to come upon the Revennues of the Church, and that parhaps they might be ſhared amongſt the Nobility, and Gentry: But if his Sonne medled with any of it, he wiſhed the curſe of God might follow him, and all them, to the Deſtruction *of the moſt Apoſtolicall Church upon Earth.*

FINIS.